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2 IN THE CIRCUIT COURT OF THE FIFTEENTH
3 JUDICIAL CIRCUIT IN AND FOR THE COUNTY
4 OF PALM BEACH, STATE OF FLORIDA

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4 THE STATE OF FLORIDA, LAWTON M. CHILES, JR.,
5 Individually and as GOVERNOR OF THE STATE OF
6 FLORIDA, DEPARTMENT OF BUSINESS AND PROFESSIONAL
7 REGULATION, and THE AGENCY FOR HEALTH CARE
8 ADMINISTRATION,

9 Plaintiffs,

10 - against - Case Number:
11 CL 95 1466 AO

12 THE AMERICAN TOBACCO COMPANY; REYNOLDS TOBACCO
13 COMPANY; RJR NABISCO, INC.; B.A.T. INDUSTRIES, PLC;
14 BATUS HOLDINGS, INC.; BROWN & WILLIAMSON TOBACCO
15 CORPORATION; PHILIP MORRIS COMPANIES, INC.; PHILIP
16 MORRIS INCORPORATED (PHILIP MORRIS U.S.A.);
17 LIGGETT GROUP, INC.; LIGGETT & MYERS INC.;
18 BROOKE GROUP LIMITED; THE BROOKE GROUP LTD., INC.;
19 LOEWS CORPORATION; LORILLARD CORPORATION; UNITED
20 STATES TOBACCO COMPANY; UST INC.; THE COUNCIL FOR
21 TOBACCO RESEARCH-U.S.A., INC., (SUCCESSOR TO TOBACCO
22 INSTITUTE RESEARCH COMMITTEE); THE TOBACCO
23 INSTITUTE, INC.; HILL & KNOWLTON, INC.; BRITISH
24 AMERICAN TOBACCO CO., LTD.; and DOSAL TOBACCO CORP.,
25 INC.,

26 Defendants.

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19 DEPOSITION of ANDREW H. TISCH, held at
20 the offices of Wachtell, Lipton, Rosen & Katz,
21 Esqs., 51 West 52nd Street, New York, New York
22 10019-6618, on the 7th day of August 1996,
23 commencing at 10:03 a.m., before Colette Cantoni, a
24 Registered Professional Reporter and Notary Public
25 of the State of New York, pursuant to Notice.

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2 A P P E A R A N C E S:

3

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23 BY: GUY DES ROSIERS, ESQ. (a.m. session)
- and -
MARK S. CHEFFO, ESQ.,
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2 A P P E A R A N C E S: (continued)

3

4 JOHN P. REILLY, ESQ.,
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18 BY: GARY R. LONG, ESQ.,
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20 WACHTELL, LIPTON, ROSEN & KATZ, ESQS.
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22 BY: HERBERT M. WACHTELL, ESQ.
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24 JEFFREY R. BOFFA, ESQ.,
25 of Counsel

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2 A P P E A R A N C E S: (continued)

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4 DAVIS POLK & WARDWELL, ESQ.
5 Attorneys for RJR Nabisco, Inc.
6 450 Lexington Avenue
7 New York, New York 10017

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7 BY: ANNE BERRY HOWE, ESQ.,
8 of Counsel

8

9 ALSO PRESENT:

10 REGINALD ROBERTSON,
11 Videographer

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2 THE VIDEOGRAPHER: We are on the video
3 record. Today's date is August 7, 1996. The time
4 is 10:03 a.m. We are located at the offices of
5 Wachtell, Lipton, Rosen & Katz, Esqs., 51 West 52nd
6 Street on the 33rd floor, New York, New York. We
7 will be taking the deposition of Andrew Tisch in the
8 matter of the State of Florida against American
9 Tobacco.

10 At this time I would ask all those
11 present to state their appearance for the video
12 record, stating their name, firm affiliation and
13 whom they represent.

14 MR. MAHER: Michael Maher, Maher, Gibson
15 and Guiley, Orlando, Florida, for the State of
16 Florida.

17 MS. MCGREGOR: Kathy McGregor, Ness,
18 Motley, Loadholt Richardson & Poole, Charleston,
19 South Carolina, for the State of Florida.

20 MS. DOMINITZ: Jennifer Dominitz, Simpson
21 Thacher & Bartlett, for British American Tobacco
22 Company, Ltd.

23 MS. HOWE: Anne Howe, Davis Polk &
24 Wardwell, for RJR Nabisco.

25 MR. DES ROSIERS: Guy Des Rosiers,

1
2 Skadden, Arps, for United States Tobacco Company and
3 UST Inc.

4 MR. GARNICK: Murray Garnick, Arnold &
5 Porter, for Philip Morris.

6 MR. REILLY: John P Reilly, for Lorillard.

7 MR. LONG: Gary Long, Shook, Hardy &
8 Bacon, for Lorillard.

9 MR. BOFFA: Jeffrey R. Boffa, Wachtell,
10 Lipton, Rosen & Katz, for Loews Corporation.

11 MR. WACHTELL: Herbert M. Wachtell,
12 Wachtell, Lipton, Rosen & Katz, for Loews
13 Corporation.

14 MR. ANDREW TISCH: Andrew H. Tisch, Loews
15 Corporation.

16 THE VIDEOGRAPHER: At this time I would
17 ask the court reporter please to swear in the
18 witness.

19 A N D R E W H. T I S C H,
20 having been first duly sworn by the Notary
21 Public, was examined and testified as
22 follows:

23 EXAMINATION

24 BY MR. MAHER:

25 Q Please state your name and current

1 A. Tisch

2 residence.

3 A Andrew H. Tisch,

4 [DELETED]

5 Q Have you ever maintained any residences
6 in any other state other than New York?

7 A Yes.

8 Q Where?

9 A Massachusetts and Florida.

10 Q Where in Florida?

11 A 10236 West Broad View Drive in Bay Harbor
12 Islands in Miami.

13 Q How long have you had that residence in
14 Florida?

15 A How long have I had that residence? I
16 lived there from 1955 to 1959.

17 Q Do you currently have any residence or
18 second home or any connection as it relates to real
19 estate in the State of Florida?

20 A No.

21 Q When is the last time that you were in
22 the State of Florida?

23 A December 1995.

24 Q And prior to that?

25 A Probably December 199 -- I'm sorry, April

1 A. Tisch

2 1995.

3 Q And prior to that?

4 A Probably December 1994.

5 Q What was the reason for the December '95
6 trip?

7 A Vacation. Christmas vacation with my
8 children.

9 Q And where was that in Florida?

10 A At the Boca Raton Hotel.

11 Q How about April of '95?

12 A That was to attend a Lorillard --
13 Lorillard had a car that was running in the Grand
14 Prix of Miami.

15 Q And December of 1994?

16 A Vacation.

17 Q In December of '94 where were you?

18 A Excuse me?

19 Q Where --

20 A Boca Raton.

21 Q In Florida? The same place, hotel?

22 A Yes.

23 Q Did you do -- did you conduct any
24 business on that trip?

25 A No.

1 A. Tisch

2 Q April of '95 did you conduct any
3 business?

4 A I was there as the CEO of Lorillard. We
5 had a race car in one of the races. And I was there
6 trying to get a better understanding of our race car
7 program.

8 Q How long were you there on that trip?

9 A Two days.

10 Q Who accompanied you?

11 A Excuse me?

12 Q Who accompanied you, if anyone?

13 A No one.

14 Q Was there anyone else with Loews or
15 Lorillard that was in attendance at that race?

16 A Not that I remember. I don't think so.

17 Q Prior to December of 1994 what was
18 your --

19 A I am sorry. Would you repeat that last
20 question.

21 Q Anybody with Loews or Lorillard that was
22 in attendance at the race, other than yourself?

23 A Yes. There was, as a matter of fact.

24 Q Who is that?

25 A A man named Barry Magid.

1 A. Tisch

2 Q And who is he?

3 A He is one of the sales promotion people
4 from Lorillard. And I remember that he was at the
5 race.

6 Q Is he also -- is he still employed by
7 Lorillard?

8 A Yes.

9 Q When did you leave as CEO of Lorillard?

10 A June of '95.

11 Q Were you CEO of both Lorillard and
12 Lorillard Tobacco?

13 MR. WACHTELL: Wait a minute. When you
14 have been saying Lorillard up until now, I have
15 assumed you were talking about Lorillard Tobacco and
16 I believe --

17 MR. MAHER: I am clarifying it.

18 MR. WACHTELL: -- and I believe the
19 witness so assumed as well.

20 THE WITNESS: Yes.

21 MR. WACHTELL: If you mean Lorillard and
22 you mean something different, you better go back and
23 start again.

24 Q Go ahead.

25 A Just tell me what the question is,

1 A. Tisch

2 please.

3 Q Are you CEO of Lorillard Tobacco and
4 Lorillard, Inc., both?

5 MR. WACHTELL: Is he?

6 MR. MAHER: Yes.

7 A Am I? No.

8 Q Have you ever been?

9 A Yes.

10 Q Okay. When?

11 A From 1989 until 1995.

12 Q When in --

13 MR. WACHTELL: Of both?

14 THE WITNESS: I believe I was CEO of both
15 entities.

16 Q When in 1995 did you resign?

17 A June.

18 Q What were the circumstances surrounding
19 that resignation?

20 A I became the chairman of the management
21 committee of Loews Corporation.

22 Q Okay. Was there any lapse in time
23 between your resignation and the assumption of your
24 new position as chairman of the management
25 committee?

1 A. Tisch

2 A There was a weekend lapse.

3 Q But that was the reason for your stepping
4 down --

5 A That's correct.

6 Q -- is to assume this new role?

7 A That's correct.

8 Q Would you describe for me, please, the
9 committee and your role on the Committee.

10 A I am, by title, the chairman of the
11 management committee. My role on there is to
12 fulfill specific functions.

13 Specifically, I have a number of the home
14 office departments that report to me. And I also
15 have responsibility as the shareholder for Bulova
16 Corporation and for Lorillard -- Lorillard
17 Corporation, Lorillard, Inc.

18 Q What do you mean by the shareholder --
19 clarify that for me.

20 A Loews has a number of investments in
21 subsidiaries. One of my responsibilities is to make
22 sure to act as the shareholder in making sure that
23 our investment in Lorillard and in Bulova is as
24 fruitful as possible.

25 Q As it relates to your stock ownership in

1 A. Tisch

2 Loews, do you still own 1,000 shares, approximately?

3 A You're talking about me personally?

4 Q Yes.

5 A Yes.

6 Q When is the last time that you purchased
7 any shares of Loews Corporation?

8 A I think whenever I purchased those 1,000
9 shares.

10 Q When was that?

11 A I believe five years ago.

12 Q Was that an outright purchase of the
13 stock or was it given to you as a bonus or some form
14 of compensation?

15 MR. WACHTELL: Mike, if you want to spend
16 your time on this, I guess it is fine with me. But
17 what does this conceivably have to do with the issue
18 of jurisdiction in Florida?

19 I really think that you ought to ask
20 proper questions that go to the subject matter of
21 this deposition.

22 I am going to let him answer, but I think
23 I should note for the record that I think you are,
24 A, further wasting time, and B, on matters that have
25 nothing whatsoever to do with the supposed subject

1 A. Tisch

2 matter of this deposition.

3 Q Do you remember the question?

4 A Why don't you repeat it.

5 MR. MAHER: Read it back, please.

6 (Question read.)

7 A I believe it was an outright purchase.

8 For sure it was not bonus or part of the

9 compensation.

10 Q Okay. What could it have been other than
11 an outright purchase or bonus or compensation?

12 MR. WACHTELL: Object to the form of the
13 question. I don't understand it. He told you he
14 thought it was a purchase. What does could it have
15 been mean?

16 MR. MAHER: His answer suggested that
17 there may have been some other vehicle available.

18 A I'm just giving you to the best of my
19 recollection.

20 Q Okay. Do you know of any other vehicle
21 available other than the outright purchase or
22 receiving of this compensation or in bonus form?

23 MR. WACHTELL: Object to the form.

24 Q Or an outright gift.

25 A I know that there are other -- there are

1 A. Tisch

2 other forms. Yes.

3 Q What other forms?

4 A I know that there have been
5 intergenerational transfers, but I do not believe --
6 I'm reasonably certain that this was an outright
7 purchase.

8 Q Define intergenerational transfers for
9 me, please.

10 A Gifts from my father or mother or
11 grandparents that have been -- you know -- that
12 could have been made.

13 Q Prior to December of 1994 when was your
14 last visit to Florida?

15 A Probably December '93.

16 Q What was the purpose of that visit?

17 A Vacation.

18 Q Same place?

19 A Same place. Very consistent.

20 Q You don't maintain a condo there or --
21 you are just a guest when you go to the Boca Club?

22 A I'm just a guest.

23 Q Did you conduct any business on the
24 December 1993 trip?

25 A No.

1 A. Tisch

2 Q Have you ever visited Miami Beach, and
3 particularly the site of the proposed Loews Hotel
4 complex there?

5 A Yes.

6 Q When?

7 A April of '95.

8 Q Okay. And who were you with at that
9 time?

10 A Well, I was in Miami, as I told you, at
11 the Grand Prix. And I knew that Loews Hotels, which
12 is a subsidiary of Loews Corporation, was interested
13 in a hotel in Miami Beach. And I was accompanied on
14 the visit by the person who was in charge of public
15 relations for the project. I don't recall his
16 name. And I simply spent a half hour kicking the
17 sand.

18 MR. WACHTELL: I note for the record that
19 your post-commencement of the action and beyond, the
20 period of time as you know, we believe that the
21 questioning is inappropriate.

22 Q Was that the first time you had visited
23 that site?

24 A Possibly I visited it somewhere between
25 1955 and 1959.

1 A. Tisch

2 Q Okay.

3 A But other than that --

4 Q But as far as -- once the decision was
5 made that the hotel was going to go there, this is
6 the only time that you had visited up until April
7 1995?

8 A I don't even know that the decision had
9 been made at that point that the project was a
10 full-go...

11 Q Did you have any discussions with anyone
12 about your visit after you made that visit?

13 A I believe I did.

14 Q With whom?

15 A Probably be with my cousin, John Tisch,
16 who is the chairman and CEO of Loews Hotels.

17 Q Anyone else?

18 A Not that I recall.

19 Q Have you ever had any discussions with
20 your father about it?

21 MR. WACHTELL: About the visit to the
22 site?

23 MR. MAHER: Yes.

24 A Not that I recall.

25 Q Okay. Any discussions with your father

1 A. Tisch

2 about the project itself prior to June 1995?

3 MR. WACHTELL: Just the two of them or --

4 MR. MAHER: Yes. Or in the presence of

5 other people. It doesn't --

6 A I don't remember. It's not entirely
7 inconceivable, but I don't -- I don't remember if we
8 did or not.

9 Q During your term as CEO of Lorillard,
10 Inc. and Lorillard Tobacco, were you a member of the
11 board of Loews Corporation?

12 A Yes, sir.

13 Q When did you first assume your role as a
14 member of the Loews board?

15 A I believe it was about 10 years ago.
16 Somewhere in the area of 10 years.

17 Q What was your relationship to Lorillard
18 at that time?

19 A I had no relationship to Lorillard. At
20 the time that I was -- that I went on the Loews
21 board?

22 Q Yes.

23 A I had no relationship to Lorillard.

24 Q Were you at Bulova at that time?

25 A I was president of Bulova at that time.

1 A. Tisch

2 Q During your term as -- during the period
3 of time that you served as a CEO of Lorillard, did
4 you make reports to the Loews board concerning the
5 actions and ongoing business of Lorillard for board
6 information?

7 A Yes.

8 Q As it relates to the assumption of your
9 new position as chair of the management committee,
10 tell me how your daily activities with reference to
11 Lorillard have changed.

12 MR. WACHTELL: Changed from when he was
13 CEO of Lorillard?

14 MR. MAHER: Correct.

15 A Well, I'm no longer managing Lorillard.
16 I have completely different responsibilities than
17 when I was at Lorillard.

18 Q How much time do you spend in interacting
19 with Lorillard now as opposed to the time you spent
20 as a CEO of Lorillard?

21 A Obviously, much less, because when I was
22 CEO of Lorillard I was spending 100 percent of my
23 time on Lorillard issues. Now it's very limited.

24 Q At whose suggestion was it that you
25 change from the CEO of Lorillard to your present

1 A. Tisch

2 position?

3 A I don't recall exactly how -- whose
4 suggestion it was, whether it was mine or Larry and
5 Bob Tisch's.

6 Q How can we determine that?

7 A You have got to jog one of our memories.

8 Q From a standpoint of this change of
9 position, when did it first come up?

10 A Probably -- probably somewhere around
11 19 -- the end of '95. I am sorry. I am sorry. The
12 end of '94.

13 Q How did it come up?

14 A I don't recall how it came up. I was
15 really starting to want to leave Lorillard at that
16 time. I forget whether Larry or Bob suggested to me
17 that there would be an opportunity at Loews or I
18 suggested to them that I may want to look for other
19 opportunities either at Loews or elsewhere.

20 Q What was your reason for wanting to leave
21 Lorillard, or reasons?

22 A It was many reasons. First of all, I had
23 accomplished what I had set out to do at Lorillard.
24 I had accomplished what had been expected of me at
25 Lorillard. And I guess the third reason was that I

1 A. Tisch

2 was not enjoying my chairmanship at Lorillard
3 because of the change in the nature of the things
4 that I was concentrating on.

5 Q What was the change in the nature?

6 A Well, I found that I was spending much
7 more time than I had wanted to on litigation and
8 legislation and regulation and investigations. It
9 simply was not something I enjoyed.

10 Q Was the final decision to form this new
11 committee and to accept your resignation as chair --
12 CEO, excuse me, of Lorillard, was that final
13 decision in Laurence or Preston Tisch or both?

14 A I think you've got a lot of questions in
15 there, and I think you have -- it is tough to
16 answer, it is a multidimensional question.

17 Q Well --

18 A Was the decision to create the management
19 committee in the hands of Laurence and Robert
20 Tisch? I believe it was.

21 Q Was the decision to accept your
22 resignation in Laurence and Robert Tisch?

23 A I believe that was the decision of the
24 board of Lorillard, Lorillard, Inc. and Lorillard
25 Tobacco Company.

1 A. Tisch

2 Q What discussions were there about who
3 would take your place, and with whom?

4 A I know that I had -- I had discussed
5 that -- the succession with Larry and Bob Tisch.
6 And I believe that we all agreed that Dr. Spears who
7 at that time was the vice chairman and chief
8 operating officer of the company would be a very
9 suitable successor.

10 Q Who was it that made the decision to put
11 you in as the CEO of Lorillard and to remove
12 Mr. Ave?

13 A Remove Mr. Ave as the CEO?

14 Q Yes.

15 A I believe that was Larry and Bob's
16 recommendation to the board of Lorillard.

17 Q So it was at their instigation; would
18 that be fair?

19 MR. WACHTELL: You don't like the word
20 "recommendation"? I object to the form of the
21 question.

22 A Let's leave it at recommendation.

23 Q Okay. Prior to the recommendation to the
24 board of Lorillard, obviously Robert and Laurence
25 Tisch came to the conclusion that Ave needed to go

1 A. Tisch

2 and you needed to come; is that correct?

3 A I don't know that that was the -- that's
4 how I would characterize it, but I think that there
5 was a feeling that they had that Bob Ave was not
6 doing a good job as CEO of Lorillard.

7 Q Do you know where Mr. Ave is presently?

8 A I don't know exactly. I think I have a
9 pretty good idea where he is.

10 Q Where?

11 A I believe he is living in Jacksonville,
12 or somewhere near Jacksonville.

13 Q What is he doing?

14 A I don't know if he's doing anything.

15 Q Did he work for someone else after he
16 left Lorillard?

17 A I believe he did.

18 Q Which company, if you know?

19 A I believe he worked for MCA Marketing
20 Corporation of America in some capacity.

21 Q So he got out of the tobacco business?

22 A I believe so. I don't know if he worked
23 on any tobacco projects as a consultant or not after
24 that.

25 Q Have you heard any rumors that he did?

1 A. Tisch

2 A I have not heard any rumors that he did.

3 Q Or do you have any information available
4 that he worked on any tobacco project?

5 A I -- I do not.

6 Q Did you have any interaction with Mr. Ave
7 when it was determined that you would take over as
8 CEO?

9 A Yes.

10 Q What was the nature of that interaction?

11 A Well, he stayed on at Lorillard for a
12 period of time as the president.

13 Q How long?

14 A I believe it was about six months. May
15 have been a little bit more. May have been a little
16 bit less.

17 Q What was the nature of his severance
18 package?

19 A I don't recall specifically, but I
20 believe he was -- he had a contract that I believe
21 was honored and he was paid out on.

22 Q How much time had elapsed in that
23 contract?

24 A I think he had a few years to go on his
25 contract. Like I said, I don't remember exactly.

1 A. Tisch

2 Q Do you know generally where in
3 Jacksonville that he is residing at the present
4 time?

5 A I don't. I believe it is one of the golf
6 resorts. I believe he has a condominium on one of
7 the golf resorts.

8 Q Over towards the beach?

9 A I have been to Jacksonville once in my
10 life.

11 Q Are you generally familiar with the
12 discussions that took place in the beginning of '94
13 as it relates to the Miami Beach project of building
14 the hotel?

15 MR. WACHTELL: Could I hear that question
16 back.

17 (Question read.)

18 MR. MAHER: Actually, it was beginning in
19 '94 as opposed to the beginning of '94.

20 MR. WACHTELL: I am not sure I understand
21 the question, Mike. Are you asking him is he
22 generally familiar with the word "discussions" or is
23 he familiar with what was said in the discussions?
24 Which is the question?

25 MR. MAHER: Whether there were

1 A. Tisch

2 discussions.

3 MR. WACHTELL: Are you generally familiar
4 with whether there were discussions about --

5 THE WITNESS: Discussions in '94?

6 Q Yes.

7 A I don't know.

8 Q Okay.

9 A I don't know when I was made aware of the
10 fact that we were considering building a hotel in
11 Miami Beach.

12 Q Do you know now that there were
13 discussions in '94?

14 A Now that you've told me. I don't know
15 when I learned of it.

16 Q As it relates to Loews Corporation in
17 guaranteeing the loan for the building of this
18 project, do you have any knowledge about that?

19 A No, I don't.

20 Q When in relation to your congressional
21 appearance did you resign as the CEO of Lorillard?

22 A Afterwards.

23 Q How long afterwards?

24 A Well, that was April '94. I resigned in
25 June '95. So 14 months.

1 A. Tisch

2 Q Did you meet with anyone in preparation
3 of that congressional statement?

4 A Yes.

5 Q Did you talk with Barry Hirsch about your
6 appearance before Congress?

7 A I don't believe so. No.

8 Q Did you talk with Robert or Laurence
9 Tisch about your appearance before Congress?

10 MR. WACHTELL: You said talked with
11 them. You mean talk in substance or --

12 Q Did you have any discussions with them?

13 MR. LONG: Before?

14 MR. WACHTELL: Talk in substance or was
15 it mentioned that he was going to appear? Which is
16 the question?

17 Q Did you have discussions before your
18 appearance in Congress with either Laurence or
19 Robert Tisch?

20 MR. WACHTELL: I still object to the form
21 because I don't think you cleared up the ambiguity.

22 A I'm sure I did.

23 Q What was the nature of those discussions?

24 A I'm sure the nature of those discussions
25 was probably at the lunch table or somewhere where I

1 A. Tisch

2 mentioned to -- probably to Larry and maybe also Bob
3 that I was going to have to appear before Congress.

4 Q Are Preston and Bob the same people?

5 A Yes.

6 Q He doesn't use Preston, he uses Robert as
7 opposed to Preston?

8 A He uses both, but sometimes he seems like
9 two people, but he is one in the same.

10 Q Okay. Thanks. Did you -- did either of
11 those gentlemen give you any advice as to your
12 presentation before Congress?

13 A No.

14 Q Who prepared your comments before
15 Congress?

16 MR. WACHTELL: I don't understand the
17 question when you --

18 Q Let me ask it this way: Did someone
19 assist you in preparation for your appearance in
20 Congress?

21 A Yes.

22 Q Who?

23 A A number of people did.

24 Q Who?

25 A Arthur Stevens who is Lorillard's general

1 A. Tisch
2 counsel. There were a number of other lawyers from
3 outside firms. From Shook, Hardy & Bacon. From, I
4 believe, Arnold & Porter. There were some people
5 from Swidler & Berlin. There were a number of
6 people. Dr. Spears helped me in preparation.

7 Q Mr. Garson?

8 A Gary Garson?

9 Q Yes.

10 A No. Gary's over at Loews. He has
11 nothing to do with Lorillard.

12 Q Does he only work for Loews Corporation?

13 A Yes.

14 Q Garson, he doesn't work for any of the
15 subsidiaries?

16 A He may do some work for some of the
17 subsidiaries, but certainly nothing -- nothing
18 during my involvement with Lorillard. I never saw
19 him doing any work for Lorillard.

20 Q Did you as a CEO of Lorillard have any
21 control over the Loews annual statement, Loews
22 Corporation annual statement?

23 A Which parts of the annual statement?

24 Q Any part of it.

25 A We had some input into the management

1 A. Tisch

2 letter -- I am sorry -- the chairman's letter.

3 Q Was that input subject to revision by
4 Loews Corporation?

5 A I don't know.

6 Q Did they on occasion change information
7 that you submitted?

8 A I can't recall that they ever did.

9 Q Do you feel they would have the power to?

10 A I don't know.

11 Q Have you in your capacity with Lorillard
12 ever retained any Florida law firm?

13 A Have I personally or has Lorillard?

14 Q Lorillard.

15 A I believe we have.

16 Q Who?

17 A I don't recall.

18 Q Prior to this lawsuit beginning, has
19 Lorillard retained Florida counsel?

20 A Yes.

21 Q For what purpose?

22 A For the purpose of fighting litigation
23 that was put in in Florida.

24 Q Are these individual suits?

25 A I believe so.

1 A. Tisch

2 MR. WACHTELL: Well, you know that there
3 was the Broin suit, because it was referred to
4 previously.

5 MR. MAHER: Right.

6 A If you consider a class action suit an
7 individual suit, yes.

8 Q Okay. Do you know anything about the
9 Associated Industry case that was initiated in
10 Tallahassee by Associated and others against the
11 state?

12 A Not really.

13 Q Do you know whether or not Loews
14 Corporation or Lorillard participated in any way in
15 that lawsuit?

16 A Why would Loews Corporation participate?

17 Q I don't know.

18 A I --

19 Q Why would they?

20 A I don't know.

21 Q They might have an interest.

22 A I don't know whether they're part of the
23 case or not.

24 Q The question was whether or not a lawyer
25 was hired to be involved in that case.

1 A. Tisch

2 MR. WACHTELL: A lawyer was hired by whom
3 to be involved on behalf of whom?

4 Q By Lorillard.

5 MR. WACHTELL: To be involved on behalf
6 of whom?

7 MR. MAHER: On behalf of Lorillard or
8 Lorillard contributing on behalf of someone else.

9 MR. WACHTELL: I object to the form
10 because I find the question incomprehensible. If
11 you can answer it, do. If you can't, don't.

12 A I can't answer the question.

13 Q Do you know anything about the lawsuit --

14 MR. WACHTELL: You asked him that.

15 Q -- I'm talking about?

16 A I know that there are a number of not
17 cases but a number of things that were initiated by
18 Lorillard and others to fight the Attorney General's
19 case.

20 Q Did Lorillard participate in any way in
21 hiring lawyers or lobbyists as it relates to that
22 lawsuit?

23 A I don't know for sure, but I would
24 presume so.

25 Q How about Loews Corporation?

1 A. Tisch

2 A Again, I don't know that Loews is part of
3 that case. I wouldn't -- I can't understand why
4 they would be.

5 Q So your answer is, to your knowledge,
6 Loews did not contribute or hire lawyers or
7 lobbyists?

8 A To my knowledge, yes.

9 Q What lobbyist did Lorillard hire?

10 MR. WACHTELL: I think you are --

11 Q If any.

12 MR. WACHTELL: I think you are beyond the
13 purview of jurisdictional discovery to ask about
14 some activity of Lorillard in some litigation in
15 Florida. Whatever Lorillard may do in litigation in
16 Florida, unless it is Loews or unless you can
17 show -- I am giving you very, very wide latitude to
18 try to show that Loews is involved in the business
19 of Lorillard on a day-to-day basis or otherwise.

20 But when you ask what Lorillard is doing in Florida,
21 I think that is inappropriate in terms of the
22 parameters of this particular discovery. So I will
23 direct him not to answer if you press the question.

24 MR. MAHER: Are you directing him not to
25 answer?

1 A. Tisch

2 MR. WACHTELL: I just did. I said if you
3 press the question, Mike. I would assume you
4 wouldn't press the question, that it is so patently
5 beyond the pale. If you insist on staying beyond
6 the pale, I will direct him not to answer.

7 MR. MAHER: Thank you, because I am
8 pressing the question.

9 MR. WACHTELL: Well, I was hoping for
10 better of you, but hope springs eternal.

11 Q From the standpoint of lobbyists, are you
12 familiar with the Florida statute as it relates to
13 Medicaid recovery?

14 MR. WACHTELL: I don't understand the
15 question. And again, I don't know what the question
16 has to do with jurisdictional discovery.

17 Q Let me ask it this way: Are you familiar
18 with the Florida statute regarding recovery of
19 Medicaid benefits?

20 A Is that the Chiles --

21 Q Yes.

22 A I'm familiar with --

23 Q How are you familiar --

24 A I am familiar with some of the issues
25 related to it.

1 A. Tisch

2 Q Have you been involved in any discussions
3 as it relates to the repeal of that particular law?

4 MR. WACHTELL: What -- in a time frame
5 now I believe long past the commencement of this
6 action; is that right, Mike? Discussions about
7 repeal?

8 MR. MAHER: No. No. It was before.

9 MR. WACHTELL: Discussions about repeal
10 are before the commencement of this litigation?

11 MR. MAHER: Discussions of repeal began
12 the day that it passed.

13 MR. WACHTELL: That was wise.

14 THE WITNESS: I believe that was because
15 it was done under the cloak of darkness, otherwise
16 we would have certainly wanted to work on it before
17 it was proposed and passed.

18 MR. WACHTELL: What is the question,
19 Mike?

20 Q What do you know about the statute?

21 A I know it exists. I know that it seeks
22 recovery of Medicaid costs for what it believes to
23 be smoking-related issues -- smoking-related health
24 issues. I know that it seeks to remove some of the
25 traditional defenses from those that the defendants

1 A. Tisch

2 in tobacco cases have used over the years. That's
3 basically what I know about it.

4 Q Did you engage in discussions with others
5 concerning the repeal of that law after its initial
6 passage?

7 MR. WACHTELL: Others at Lorillard or
8 others where and who?

9 MR. MAHER: Period. Others period.

10 A Yes.

11 Q Okay. Who did you discuss it with?

12 A I'm sure I discussed it Arthur Stevens,
13 the general counsel at Lorillard.

14 Q Did you ever discuss it with Laurence
15 Tisch or Robert Tisch?

16 A Not that I can -- not that I can recall.
17 And certainly if it was, it was in an informal,
18 nonbusiness context.

19 Q Well, I need to know whether you
20 discussed it or you didn't discuss it.

21 A I don't remember if I did or not.

22 Q Okay. Can you tell us here today that
23 you never discussed the repeal of the Florida
24 statute with Laurence Tisch or Robert Tisch?

25 A No, I can't tell you that.

1 A. Tisch

2 Q Okay. Can you tell me whether or not you
3 discussed the repeal of the Florida statute for
4 Medicaid recovery with Barry Hirsch?

5 A I can't tell you that.

6 Q Can you tell me that you didn't discuss
7 it with Barry Hirsch?

8 A No. No, I can't.

9 Q Do you recall when you had the initial
10 discussions as to the repeal in relation to the date
11 of its passage in 1994?

12 A Well, obviously it would have been some
13 time after the passage. And I probably would have
14 found it so galling that once I read about it I
15 would have spoken with Arthur Stevens almost
16 immediately.

17 Q So would it be fair to say that
18 discussions were had some time after the passage of
19 law in mid 1994 as soon as you became aware that the
20 law had passed?

21 A Oh, yes.

22 Q Do you recall how you learned it passed?

23 MR. WACHTELL: What does this have to do
24 with jurisdiction? In other words, if -- I have let
25 you probe as to whether or not he had discussions

1 A. Tisch
2 with people at Loews on the subject. But his
3 conversations with other people at Lorillard or how
4 he learned how it passed, what does that have to do
5 with jurisdiction in Florida? Can you enlighten
6 me? If you can give me any conceivable relevance, I
7 would let you go ahead. I really think it is an --

8 MR. MAHER: It is a discovery deposition.

9 MR. WACHTELL: It is a discovery
10 deposition on jurisdiction.

11 MR. MAHER: I don't know what he is going
12 to say so I don't really have the capacity to tell
13 you what the questions might bring in answers. But
14 an answer brings another question. I'm just
15 following up on it.

16 MR. WACHTELL: On that theory, Mike, you
17 could ask anything and the limits that have been set
18 that this is the discovery, not general, but for
19 jurisdictional purposes, becomes meaningless. If
20 you can just ask anything in the world on theory,
21 you don't know what the answer is, then there are no
22 limits. The questions have to be tailored at least
23 hopefully to the relevant subject. And I am
24 prepared and have been giving very broad latitude on
25 that.

1 A. Tisch

2 When you ask him how he became aware of
3 the Florida legislation passing, I must tell you --
4 I am going to let him answer but I have a very, very
5 hard time divining how that can even remotely be
6 intended as having to do with jurisdictional
7 discovery. He may answer.

8 THE WITNESS: Could we have the question
9 back, please.

10 Q When did you first become aware that the
11 law had passed?

12 A Shortly after -- afterwards.

13 Q How did you become aware?

14 A I don't recall specifically, but probably
15 a newspaper article. Also conceivably, it may have
16 been brought to my attention by Arthur Stevens.

17 Q To your knowledge, did Lorillard hire a
18 lobbyist to lobby for the repeal of the bill -- of
19 the law?

20 MR. WACHTELL: It is clear that you are
21 not seeking to put questions that have to do with
22 anything relevant to jurisdiction. I am going to
23 direct him not to answer. Please get on to
24 jurisdictional matters.

25 Q Was there ever any discussion with anyone

1 A. Tisch

2 at Loews Corporation concerning the hiring of
3 lobbyists for the repeal of the law?

4 A No.

5 Q Never any discussions with Barry Hirsch?

6 A No.

7 Q Has Barry Hirsch ever talked with you
8 about this particular law?

9 MR. WACHTELL: I think you asked that
10 before. He said he had no recollection but he could
11 not absolutely exclude it, or words to that effect.

12 Q Is that correct?

13 A That's what I said.

14 Q Thank you.

15 A Yes.

16 Q As it relates to current activities by
17 yourself and your interaction with Lorillard, how
18 much time are you spending on Lorillard right now,
19 as the chair of the management committee?

20 A You have to be more specific when you say
21 "on Lorillard."

22 Q Why don't you make it specific. I can't
23 make it any more specific than that. I am talking
24 about the interaction with Lorillard, Inc. and
25 Lorillard Tobacco Company on a daily basis.

1 A. Tisch

2 A I have certain responsibilities --

3 MR. WACHTELL: Well, wait a minute. The
4 question presumes that it is done on a daily basis.
5 You just slipped something in at the very end. I
6 object to the form.

7 Q Is it done on a daily basis?

8 A No.

9 Q How often do you do it?

10 THE WITNESS: Thank you, counselor.

11 Q How often do you do it?

12 A Periodically.

13 Q Periodically? What is periodically?

14 A Periodically is on an as-needed basis.

15 Q How much time in the last month did you
16 spend on Lorillard?

17 A Again, it is kind of a vague question.

18 If I can just clarify it a little bit.

19 Part of my responsibility is I have
20 supervisory responsibility over certain departments
21 at Loews that are -- that are contracted with
22 Lorillard to handle certain issues that come up as
23 part of the services agreement.

24 So when you say -- one of the areas is
25 human resources. Well, human resources spends a

1 A. Tisch

2 great deal of their time on Lorillard issues,
3 particularly now. So if I'm talking with the human
4 resources people, is that counted as Lorillard time,
5 whether it is specifically on Lorillard or not?

6 Q You have no ability to estimate how much
7 time you spend on Lorillard in the last month?

8 A Not when you say on Lorillard. Because
9 you haven't defined it.

10 Q How much time did you spend speaking with
11 Dr. Spears in the last month?

12 A I would say in the last month, maybe a
13 couple of hours.

14 Q Other employees of Lorillard or Lorillard
15 Tobacco? Same question.

16 A Under an hour. Probably measured more in
17 minutes.

18 Q Has Loews Corporation made any
19 contributions to Associated Industries?

20 A Could you be more specific.

21 Q Yes. Do you know the organization called
22 Associated Industries?

23 A No.

24 Q Have you heard of Associated Industries
25 of Florida?

1 A. Tisch

2 A You've refreshed my memory in this line
3 of questioning. But I think I had heard about it
4 years ago, several years ago, and had not thought
5 about it in quite a while.

6 Q Has Loews Corporation ever been a member
7 of Associated Industries?

8 A I don't -- I don't believe it has.

9 Q How about Lorillard, have they ever been
10 a member of Associated Industries?

11 A I don't know that it's a membership
12 organization.

13 Q So I assume that to the best of your
14 knowledge they have never been a member?

15 A I can't characterize the relationship of
16 Lorillard with Associated Industries because I
17 really don't know too much about it.

18 Q As CEO of Lorillard would you know if
19 Lorillard or Lorillard Tobacco had ever been a
20 member of Associated Industries?

21 A I don't know. I said before I don't know
22 if it's a membership organization or what it is.

23 Q Assume it is a membership organization.

24 A I wouldn't know if it was a member or
25 not. Let's put it this way. I don't know if it was

1 A. Tisch

2 a member or not.

3 Q Do you know whether or not Loews
4 Corporation has ever made any contributions to
5 Associated Industries of Florida?

6 A I don't know but, again, my presumption
7 is that it hasn't because Loews doesn't do business
8 in Florida.

9 Q In discussing lawsuits that Lorillard is
10 involved in do you have regular meetings with Barry
11 Hirsch to bring him up to date on them?

12 MR. WACHTELL: When?

13 MR. MAHER: Any time.

14 MR. WACHTELL: I mean you are talking
15 about when he was CEO of Lorillard? Since? Which
16 is your question?

17 MR. MAHER: Let's do it this way:

18 Q When you were CEO of Lorillard did you
19 have regular meetings with Larry Tisch as it relates
20 to lawsuits and the status of them in which
21 Lorillard was involved?

22 MR. WACHTELL: I am sorry? Could I have
23 the last two questions read back, please.

24 (Record read.)

25 MR. WACHTELL: Now that the question --

1 A. Tisch

2 Q Barry Hirsch.

3 MR. WACHTELL: My problem was I thought
4 you had switched names in rephrasing the question.
5 That was my problem.

6 MR. MAHER: That was my mistake.

7 MR. WACHTELL: So the question is?

8 MR. MAHER: Barry Hirsch.

9 MR. WACHTELL: And which time frame now?

10 Q Let's talk about the time frame that you
11 were CEO of Lorillard.

12 MR. WACHTELL: Did you have regular
13 meetings with Barry Hirsch? Do you discuss
14 litigation impacting Lorillard?

15 A We had some meetings. They were not on a
16 regular basis. Maybe once or twice a year.

17 Q Would he give you input?

18 MR. WACHTELL: What is the question?

19 Q Would he give you input on those
20 lawsuits?

21 A No. These were typically informational
22 meetings.

23 Q So all you did was -- it was a one-way
24 conversation in which you reported what was
25 happening in the lawsuits and he made no comment

1 A. Tisch

2 whatsoever?

3 A Knowing Barry Hirsch, I'm sure he made
4 plenty of comments. But the primary focus of these
5 was for Lorillard to provide information to Barry
6 Hirsch.

7 Q Can you answer unequivocally that
8 Mr. Hirsch never gave any advice as it relates to
9 Lorillard lawsuits in those conversations?

10 A No, I cannot say that unequivocally.

11 Q Has Lorillard ever purchased any real
12 estate in Florida?

13 MR. WACHTELL: What is the -- no one
14 is -- unless someone -- I'll turn to Mr. Long. No
15 one disputes that Lorillard does business in
16 Florida, does it?

17 MR. MAHER: Correct.

18 MR. LONG: We don't. They may.

19 MR. WACHTELL: So if Lorillard -- what
20 difference does it make if Lorillard has purchased
21 real estate in Florida? Lorillard does business in
22 Florida.

23 Q I will just ask the question further
24 then.

25 Has Loews Corporation ever guaranteed any

1 A. Tisch

2 loan for the purchase of real estate in Florida?

3 MR. WACHTELL: By Lorillard?

4 MR. MAHER: By Lorillard.

5 MR. WACHTELL: That's a proper question.

6 A Not --

7 MR. MAHER: So is the first one.

8 MR. WACHTELL: No. You should have asked
9 this one in the first place, Mike, to save time.

10 A Not that I know of. But I also do not
11 know if Lorillard owns any real estate in Florida.
12 I do not believe it does.

13 Q Do you know whether or not Lorillard owns
14 any property in Florida, real or personal?

15 A Just refresh my memory on the definition
16 of "personal property."

17 Q Anything that is not real.

18 MR. WACHTELL: A desk. A typewriter. A
19 pack of cigarettes.

20 Q Computer. Telephones. Product, you
21 know?

22 A My guess would be that Lorillard does not
23 own any real property in Florida, because typically
24 the office space that it requires it leases. The
25 real property, my guess is that they do own real

1 A. Tisch

2 property in the State of Florida in the form of --

3 Q Personal property? You said real. You
4 mean personal?

5 A I am sorry. Personal property -- in the
6 form of desks and typewriters and equipment
7 necessary to do business.

8 Q Is there an agreement on any of that
9 property where Loews Corporation guarantees the
10 payment of loans existing for the purchase of that
11 property?

12 MR. WACHTELL: Somehow I think Lorillard
13 has sufficient financial capability to buy a desk on
14 its own, but I will let the witness answer.

15 A I don't believe so.

16 Q To your knowledge, has Loews Corporation
17 guaranteed loans for Lorillard in the past?

18 A To my knowledge, no.

19 Q Are you currently on the executive
20 committee of the Tobacco Institute?

21 A No.

22 Q When did you resign?

23 A Concurrent with my resignation as
24 chairman and CEO of Lorillard.

25 Q Have you ever been on the -- well, strike

1 A. Tisch

2 that.

3 Are you on either the board of the
4 Tobacco Institute or the board of CTR at the present
5 time?

6 A No.

7 Q Have you ever been on the board of CTR?

8 A I don't know if I was a board member of
9 CTR or not. I was on the board of the Tobacco
10 Institute. I believe I was on the board of the
11 Tobacco Institute.

12 Q Who currently with Lorillard is on the
13 board of the Tobacco Institute, if anyone?

14 A I'm not sure who's on the board per se.
15 I believe that Arthur Stevens and Alex Spears are on
16 the executive committee. But I don't --

17 Q This is the Tobacco Institute?

18 A Of the Tobacco Institute. I don't recall
19 the specific structure of the board.

20 Q At the time that you were on the
21 executive committee of the Tobacco Institute was
22 Spears also on it?

23 A No.

24 Q Any other Lorillard employee?

25 A Yes.

1 A. Tisch

2 Q Who?

3 A Arthur Stevens.

4 Q Is there any employee of Loews
5 Corporation that is on the board of either the
6 Tobacco Institute or CTR?

7 A No.

8 Q Any Loews employee or officer who is on
9 the executive committee of the Tobacco Institute?

10 A No.

11 Q Or has ever been?

12 A Not that I know of.

13 Q Specifically, Laurence Tisch and Robert
14 Tisch, have they ever been --

15 A Well, let me rephrase that. You know, if
16 you characterize my involvement now as a Loews
17 Corporation employee, I was on the board of the
18 Tobacco Institute --

19 MR. WACHTELL: No. He is talking about
20 concurrently.

21 Q Concurrently.

22 MR. WACHTELL: He doesn't mean at some
23 different life phase.

24 A No.

25 Q Okay.

1 A. Tisch

2 A Okay.

3 Q Let me just clear this up.

4 At no time since you have come back and
5 become the -- not come back.

6 At no time from the time you became the
7 chair of the management committee did you serve on
8 the executive committee, the Tobacco Institute or as
9 a board member of CTR; is that a correct statement?

10 A That's correct.

11 Q How did you resign from those group or
12 groups?

13 MR. WACHTELL: He hasn't said he was on
14 the board of CTR.

15 MR. MAHER: I understand. Right.

16 A I believe I submitted a letter of
17 resignation.

18 Q Where could we find a copy of that
19 letter?

20 A Arthur Stevens may have a copy of it. Or
21 it should be, if not here, the Tobacco Institute
22 should have a copy of it.

23 Q Who recommended that you resign?

24 A I'm not sure who would have recommended
25 it. But my intention when I left Lorillard was to

1 A. Tisch
2 resign from all the affiliated boards that I was on.

3 Q To the best of your knowledge, Laurence
4 or Robert Tisch never served in any capacity with
5 CTR or Tobacco Institute?

6 A That is correct.

7 Q Have you ever had any discussions with
8 Barry Hirsch, Laurence Tisch or Robert Tisch about
9 CTR?

10 MR. WACHTELL: Wait a minute. With
11 respect to Barry Hirsch your answer should be
12 limited to a yes or no. Actually, with respect to
13 all of them your answer to this question should be
14 limited to a yes or no.

15 A Give me the specific question again,
16 please.

17 Q Okay. Have you ever had any
18 conversations with Barry Hirsch, Laurence Tisch or
19 Robert Tisch about CTR?

20 A I don't believe so.

21 Q Ever?

22 A I don't believe so.

23 Q Okay. How about, have you had any
24 conversations with any of those three about the
25 Tobacco Institute?

1 A. Tisch

2 A I believe so. Yes.

3 Q Okay. What was the nature of those
4 discussions, as it relates to Laurence Tisch or
5 Robert Tisch?

6 A I believe it was -- the nature of the
7 discussion I recall was more in the form of gossip
8 about why Brown & Williamson was not a member of the
9 Tobacco Institute.

10 Q And what was that reason?

11 A They were mad at Philip Morris at the
12 time. It had something to do with the introduction
13 of Merit cigarettes -- introduction of Merit
14 cigarettes in Europe. It was something that was a
15 longstanding feud between the two companies.

16 Q Any other discussion about the Tobacco
17 Institute with either of those two gentlemen?

18 A Not that I can recall.

19 Q What was the nature of any discussion
20 that you had with Barry Hirsch, without telling me
21 the particulars, just the nature of the discussion?
22 Was it generally the same as it was with Larry and
23 Robert Tisch?

24 A I don't recall any discussions of any
25 nature with Barry Hirsch.

1 A. Tisch

2 MR. WACHTELL: With respect to Tobacco
3 Institute?

4 THE WITNESS: Right.

5 You have to understand one thing, and
6 that is that Larry Tisch is my father and Bob Tisch
7 is my uncle, and we have a very close personal
8 relationship in addition to the business
9 relationship. You know, we do have lunch together
10 periodically, and we do kind of like each other and
11 enjoy talking to each other. So discussions are not
12 outside the realm of --

13 Q Did you ever have any discussions with
14 them about how much money you were going to give CTR
15 or Tobacco Institute?

16 A No.

17 Q How much money did --

18 MR. WACHTELL: You being Lorillard; is
19 that correct?

20 Q How much money did Lorillard give them?

21 A How much money did --

22 MR. WACHTELL: Wait a minute.

23 Q How much money --

24 MR. WACHTELL: Wait a minute.

25 MR. MAHER: Okay.

1 A. Tisch

2 MR. WACHTELL: I don't understand the
3 question. What does how much money Lorillard gave
4 to CTR or the Tobacco Institute have to do with the
5 issue that Loews is subject to jurisdiction in
6 Florida? Can you enlighten me?

7 MR. MAHER: Do you want to instruct him
8 not to --

9 MR. WACHTELL: I am asking you, if you
10 can enlighten me as to any conceivable potentiality
11 in my wildest imagination that would lead to
12 relevant evidence on jurisdiction, I will let him
13 answer. If you can't, I am sure going to direct
14 him. But I'm trying to give you very, very broad
15 latitude here. I am not trying to constrain you,
16 Mike. If you can indicate to me any even remote
17 possibility that this is likely to lead to relevant
18 evidence on jurisdiction, I certainly will not
19 direct him. But if you can't, then your silence
20 will speak very loudly.

21 MR. MAHER: Well, my silence does not
22 speak except for a silence. If you want to instruct
23 your client not to answer a question, please do.

24 MR. WACHTELL: You are saying your
25 silence speaks as silence, I will direct him not to

1 A. Tisch

2 answer. Unless you can tell me how is it germane --

3 MR. MAHER: I am saying your objection is
4 inappropriate and I don't have to respond to
5 something that is inappropriate.

6 MR. WACHTELL: I am asking you to help
7 me. When you ask a question --

8 MR. MAHER: We are wasting our time. You
9 have instructed him to not to answer it. That's
10 fine.

11 MR. WACHTELL: When you ask him how much
12 money Lorillard has contributed to CTR or the
13 Tobacco Institute, to my mind that is so far removed
14 from any conceivable issue of jurisdiction over
15 Loews in Florida that I think it is an improper
16 question within the parameters of this deposition.

17 I only asked you to help me because maybe
18 I am missing something. If you can't help me then I
19 assume I am not missing something so I am directing
20 him not to answer.

21 Q Did you ever have any discussion or make
22 any presentation to the board of Loews Corporation
23 that you wanted to give CTR \$2.5 million in 1992?

24 A No.

25 Q Did you ever receive authorization for

1 A. Tisch

2 Lorillard to give a contribution of \$2.5 million in
3 1992?

4 MR. WACHTELL: From the board of Loews?

5 MR. MAHER: From anyone.

6 MR. WACHTELL: From anyone?

7 MR. MAHER: Yes.

8 MR. WACHTELL: Who is you in the
9 question?

10 MR. MAHER: The deponent.

11 MR. WACHTELL: He didn't personally give
12 them \$2.5 million.

13 Q Did you make the decision to give CTR
14 \$2.5 million in 1992?

15 A The decision was made as part of the
16 budgetary process, I believe, at Lorillard.

17 Q Was that ever reported to Loews?

18 MR. WACHTELL: You are now asking a
19 different question than you asked before? Before
20 your question was the Loews board. Have you changed
21 your question?

22 MR. MAHER: Yes.

23 A Was that ever reported to Loews?

24 Q Yes.

25 A It may have been part of the annual

1 A. Tisch

2 budget presentation that Lorillard makes to Loews
3 every November.

4 Q Did --

5 A But if -- let me finish. If it was, it
6 was a one-line entry in the presentation.

7 Q Did you make a presentation to
8 Lorillard's board requesting that the 2.5 million be
9 given in 1992?

10 MR. WACHTELL: Wait a minute. He has not
11 testified that there was a request to the Lorillard
12 board that 2.5 million be given. So you're asking
13 him -- there is a premise in your question that I
14 don't think is to be found in the testimony.

15 Q Was there a request made to the Lorillard
16 board to give \$2.5 million to CTR in 1992?

17 A First of all, I'm not sure -- if you're
18 telling me that Lorillard gave \$2.5 million to CTR
19 in 1992 -- is that what you're telling me?

20 Q No. I am asking you, did they give
21 \$2.5 million in 1992?

22 MR. WACHTELL: Wait a minute. Wait a
23 minute. If you have not had a good faith basis for
24 that question then you're getting a very strenuous
25 objection from this side of the table because you

1 A. Tisch

2 have been feeding that number to the witness as if
3 it were fact.

4 Q Did you give them \$2.5 million in 1992?

5 A I don't know.

6 Q Have you ever testified that you gave
7 them \$2.5 million in 1992?

8 A I don't know that I have or haven't. Are
9 you telling me that I testified to that?

10 Q I am asking you if you testified to that.

11 A I don't know if I did or didn't.

12 Q Would you -- can you state one way or
13 another for me as we sit here?

14 A No, I won't.

15 Q Okay. So it could have been
16 \$2.5 million --

17 MR. WACHTELL: Do you know the amount?
18 Do you know the amount that Lorillard contributed to
19 CTR in 1992 as you sit here now?

20 THE WITNESS: No.

21 MR. LONG: You can't ask him that, you
22 already instructed him not to answer.

23 MR. WACHTELL: I know that. I was
24 waiting for Mike to instruct him not to answer.

25 Q Do you know whether or not -- do you know

1 A. Tisch

2 the sum of money that Lorillard gave to CTR in '89,
3 '90, '91, '92, '93, '94?

4 MR. WACHTELL: Okay. Look, Mike, if you
5 want to ask him whether there was any interaction
6 with Loews in the determination of how much money
7 Lorillard should give in any of those years, that is
8 a proper question. If you are just going to ask him
9 the amounts of money that Lorillard gave, that has
10 nothing to do with jurisdiction, I am going to
11 direct him not to answer.

12 MR. MAHER: Are you directing him not to
13 answer that question?

14 MR. WACHTELL: Yes. But I am telling you
15 if you want to go into whether there is any
16 interaction with Loews or Loews's involvement, that
17 you are free to ask. I am not trying to
18 circumscribe you here on anything that is
19 appropriate.

20 Q Do you remember your deposition being
21 taken in the Broin case?

22 A Yes.

23 Q That is the stewardesses, the flight
24 attendants.

25 A Yes. I remember giving a deposition.

1 A. Tisch

2 Q On page 11 of that deposition the
3 question asked at line 9, "How much money did
4 Lorillard give to the Council for Tobacco Research,
5 let's say, in 1992?

6 "Answer: I believe that we gave
7 approximately \$2.5 million."

8 MR. WACHTELL: Is there a question?

9 Q Does that refresh your recollection?

10 MR. WACHTELL: Direct him not to answer.

11 Q If you --

12 MR. WACHTELL: And if you already have
13 the testimony of Broin and the witness's testimony,
14 then it just compounds the offense that you are now
15 not only keeping us here and keeping this witness
16 here asking him questions that have nothing to do
17 with jurisdiction, but you are also asking questions
18 where you have prior sworn testimony of the witness
19 on the very subject so that it is totally
20 repetitious and badgering and harassment to do so,
21 Mike.

22 MR. MAHER: Are we given to believe then
23 that we can use the Broin deposition for any purpose
24 in our case?

25 MR. WACHTELL: No. You are given to

1 A. Tisch

2 believe that that was testimony by him at the time
3 he was CEO of Lorillard.

4 MR. MAHER: Okay.

5 Q Would you agree that the contributions to
6 CTR by Lorillard were consistent in the 2.5 range
7 per year from '89 to '94?

8 MR. WACHTELL: Direct him not to answer.

9 Q Did you ever have any discussions with
10 anyone at Loews Corporation concerning the giving of
11 \$2.5 million in '92 and '93 specifically and --
12 strike it.

13 Did you ever have any discussions with
14 anyone from Loews Corporation concerning the giving
15 of \$2.5 million in '92 and '93 to CTR?

16 A The only way that I would conceivably
17 have had such a discussion is as part of the budget
18 presentation in a one-line entry in the budget.

19 Q So you are telling me that giving
20 \$2.5 million to the Council for Tobacco Research was
21 never questioned or discussed with any Loews
22 representative, Loews Corporation representative?

23 A That's what I'm telling you.

24 Q There was never any discussion with Barry
25 Hirsch, never a discussion with Laurence Tisch or

1 A. Tisch

2 Robert Tisch?

3 A None that I can remember.

4 Q How about Gary Garson?

5 A Gary Garson, same.

6 Q You have --

7 A I do not --

8 Q But you had no discussion?

9 A I do not remember any discussion with
10 anyone from Loews Corporation concerning the amount
11 of money that was being given to CTR. And I have
12 already answered the only conceivable way would be
13 as part of the budget presentation.

14 Q From a standpoint of interaction with
15 Mr. Garson while you were CEO of Lorillard, did you
16 interact with him in the preparation of SEC reports?

17 A I believe there were instances where he
18 would question -- he was seeking information in
19 preparation of SEC reports.

20 Q Would information concerning
21 contributions to CTR of \$2.5 million in 1992 and '93
22 be matters that would be discussed in the
23 preparation of that SEC report?

24 A I don't know.

25 Q Would you agree that they could have been

1 A. Tisch

2 discussed?

3 A I wouldn't agree to that because I don't
4 know whether they were or were not.

5 Q So you don't think you had any
6 discussions with Gary Garson about contributions to
7 CTR at any time; is that correct?

8 A To the best of my recollection, that is
9 correct.

10 Q What were the revenues of Lorillard in
11 1992?

12 A They've always been somewhere in the area
13 of 1. -- I guess in '92 they would have been about
14 \$1.5 billion.

15 Q Have you indicated that they were
16 2.2 billion?

17 A They could have been. When I left they
18 were -- '92, that was before Marlboro lowered their
19 prices. It could have been 2.2 billion.

20 Q How about '93?

21 A Marlboro Friday was in '93; is that
22 correct? Whenever Marlboro Friday was, whatever
23 year that was, the revenues dropped.

24 Q And that's when it went down to about
25 1. -- what did you say, 1.6?

1 A. Tisch

2 A 1.5, 1.6, somewhere in that area. I
3 believe Marlboro Friday was 1993.

4 Q What was the purpose of your membership
5 on the executive committee at the Tobacco Institute?

6 MR. WACHTELL: I cannot fathom what the
7 purpose of his membership when he was CEO of
8 Lorillard on the executive committee of the Tobacco
9 Institute has to do with whether Loews is subject to
10 jurisdiction in Florida.

11 So if you can enlighten me, I am going to
12 direct him not to answer.

13 MR. MAHER: Is that a direction?

14 MR. WACHTELL: Unless you can enlighten
15 me why it is conceivably within the permissible
16 scope of this deposition. I mean, Mike, if you want
17 to try to transgress the ground rules for this
18 deposition, don't try to put me on the spot. You're
19 the guy who is asking questions that are beyond the
20 proper limits. Now if you can show me it is within
21 the proper limits, I will let him answer. If you
22 can't, I will direct him.

23 MR. MAHER: If you're confident of your
24 position, then I think you ought to direct him. If
25 you're not confident of your position, I am not

1 A. Tisch

2 going to raise your level of confidence.

3 MR. WACHTELL: I am very confident in my
4 position that I have the right to direct him not to
5 answer matters that have nothing whatsoever to do
6 with the jurisdictional purpose of this deposition.

7 I cannot see where that question has
8 anything to do with it. If I am missing something
9 and you can show me how it might, I would let him
10 answer. If you cannot show me how it might, I am
11 directing him.

12 MR. MAHER: I am waiting on you.

13 MR. WACHTELL: I have just given him a
14 direction if you persist in your silence.

15 MR. MAHER: If you are confident in your
16 direction, go ahead and direct him not to answer.

17 MR. WACHTELL: I just did.

18 MR. MAHER: I don't ask questions that I
19 don't think I am entitled to ask.

20 MR. WACHTELL: It is not -- it is -- I
21 cannot fathom any conceivable connection with
22 anything having to do with jurisdiction. So unless
23 you can point out to me that I'm missing something,
24 I am directing him not to answer.

25 Q If you want to take a break, just yell,

1 A. Tisch

2 okay?

3 A I just wanted a warm cup of coffee.

4 Q Have you ever had any interaction with
5 Loews Corporation as it relates to establishing a
6 position on people under 18 years of age smoking?

7 A Do you want to repeat the question,
8 please?

9 MR. MAHER: Read it back to him, please.

10 (Question read.)

11 A I don't believe so.

12 Q Have you ever had any discussion or
13 interaction with Loews Corporation as it relates to
14 a position on the use of models under 25 in
15 advertising of tobacco products?

16 A I don't believe so. But that all is part
17 of the -- that particular instance or issue is part
18 of the advertizing code that I know the tobacco
19 industry, and Lorillard in particular, subscribes
20 to.

21 Q As it relates to vending machines have
22 you ever discussed or interacted with Loews
23 Corporation of limiting access to those machines by
24 minors, people under 18?

25 MR. WACHTELL: I object to the form of

1 A. Tisch

2 the question. I don't know what interacted with
3 Loews Corporation means. But if he can answer, he
4 is free to do so.

5 A I don't believe so.

6 Q Have you ever had any discussions or
7 interaction with Loews Corporation as it relates to
8 a position of the targeting of the youth market?

9 MR. WACHTELL: Object to the form.

10 A One point of clarification. You're
11 asking me have I ever. I served as CEO of Lorillard
12 from '79 to -- from '89 to '95. If you're talking
13 about in that period of time, in any period of
14 time --

15 Q I am talking about in that period of
16 time.

17 A In that period of time. So as CEO of
18 Lorillard did I have any interaction specifically
19 vis-a-vis the marketing to minors; is that correct?

20 MR. WACHTELL: I think the question --

21 Q Correct.

22 MR. WACHTELL: No, that wasn't your
23 question.

24 MR. MAHER: Targeting of minors.

25 MR. WACHTELL: Your question was

1 A. Tisch

2 discussions.

3 MR. MAHER: Discussion or interaction. I

4 used both words.

5 MR. WACHTELL: That wasn't the question.

6 I object to the form of the question.

7 I think if you put a clear question

8 before the witness then he can try to answer it.

9 A I don't believe so.

10 Q Are you familiar with any proxy

11 statements relating to the targeting of children

12 that were submitted to Loews Corporation?

13 MR. WACHTELL: That question is

14 unfathomable. Proxy statements submitted to Loews

15 Corporation? I don't know what you mean.

16 Q Are you familiar with any resolutions

17 that were presented to Loews Corporation to be made

18 a part of the proxy statement?

19 MR. WACHTELL: Are you talking about

20 stockholder proposals?

21 MR. MAHER: Pardon?

22 MR. WACHTELL: Are you talking about a

23 shareholder proposal?

24 MR. MAHER: Yes.

25 MR. WACHTELL: Okay.

1 A. Tisch

2 A Yes.

3 Q What is your familiarity?

4 A I don't recall the specifics of certain
5 shareholder proposals. But they did concern -- they
6 do concern targeting to minors. Targeting to
7 minorities. Advertising to minorities. And
8 location of advertisements, banning of certain
9 items, certain promotional items.

10 Q Were you consulted as a CEO of Lorillard
11 with reference to that proposal?

12 A I don't want to characterize that as one
13 proposal. There have been a number of proposals
14 over the years. And they happened when I was CEO of
15 Lorillard and they continue even beyond that.

16 The question is?

17 Q Were you consulted?

18 A I was made aware of their existence.
19 Yes.

20 Q Were you asked for any input?

21 MR. WACHTELL: You mean with respect to
22 the board's recommendation?

23 MR. MAHER: Yes.

24 A With respect to the board of Loews's
25 recommendation?

1 A. Tisch

2 Q Correct.

3 A As a board member of Loews --

4 Q I am asking you as the CEO of Lorillard
5 were you asked for any input?

6 A I may have been. I don't recall
7 specifically, but I may have been.

8 Q Did you give any, to your knowledge?

9 A I don't recall.

10 Q Can you exclude it, one way or the other?

11 A No. No.

12 Q Does Bulova have any real estate in
13 Florida?

14 A No.

15 Q Did they at any time during your CEO term
16 with them?

17 A No.

18 Q Do you know whether or not Loews
19 Corporation ever guaranteed any loan for any
20 property, real or personal, in the State of Florida
21 from 1989 to 1995?

22 MR. WACHTELL: Does this have to do with
23 Bulova or -- are you limiting your question to
24 Bulova?

25 MR. MAHER: To Bulova. Yes. I am sorry.

1 A. Tisch

2 A I can't imagine that they would have.

3 No.

4 Q Are you familiar with the special
5 projects area for the Council of Tobacco Research?

6 MR. WACHTELL: Although I think that is a
7 merits question, perhaps you are getting into
8 something having to do with jurisdiction, I will
9 permit him to answer.

10 A I'm aware that it existed. I'm not sure
11 that it exists today.

12 Q What was its function?

13 MR. WACHTELL: I am going to direct him
14 not to answer. It has nothing whatsoever to do with
15 the proper scope of this deposition. If you want to
16 ask him whether there were discussions with Loews on
17 the subject or interaction with Loews on the
18 subject, I will certainly permit you to do so.

19 Q Did you ever discuss special projects
20 area for the Council of Tobacco Research with any
21 Loews representative?

22 A No.

23 MR. MAHER: Take a little break?

24 MR. WACHTELL: Sure.

25 THE VIDEOGRAPHER: We are going off the

1 A. Tisch

2 video record. The time is 11:27.

3 (Recess taken.)

4 THE VIDEOGRAPHER: We're back on the

5 video record. The time is 11:44 a.m.

6 BY MR. MAHER:

7 Q Referring to the 1994 annual report, as
8 it relates to the CEO's letter, which is right up at
9 the beginning, as it relates to Lorillard, at the
10 bottom of the page -- I am going to refer -- I will
11 hand you a copy of it -- at the bottom of page,
12 there is no number on there, but it is the first
13 page of the Lorillard discussion which starts out,
14 "Lorillard continues to support and strictly adhere
15 to a voluntary multifaceted, industry program."
16 Beginning there and ending about nine lines down on
17 the next page.

18 A You mean with attractiveness?

19 Q Yes.

20 (Witness reviewing.)

21 Q Okay. Do you know when that language was
22 put together?

23 A I don't know when specifically.

24 Q Do you know who was involved in the
25 preparation of that language?

1 A. Tisch

2 A Yes.

3 Q Who?

4 A Arthur Stevens and I were.

5 Q Did Mr. Garson have anything to do with
6 that language?

7 A Not that I know of.

8 Q Could he have had?

9 MR. WACHTELL: Object to the form.

10 Anything in the world is possible. The witness has
11 answered your question.

12 Q Go ahead.

13 A I take his direction.

14 MR. WACHTELL: It wasn't a direction.

15 A I have answered the question.

16 Q So you don't know whether Mr. Garson --

17 MR. WACHTELL: No. He said he didn't

18 think he did, or words to that effect.

19 MR. MAHER: Okay.

20 Q How about Mr. Hirsch, do you know?

21 A The same answer.

22 Q Okay. How about James Tisch?

23 A Same answer.

24 Q As far as the inclusion of this paragraph
25 in the '94 document, who made the final decision as

1 A. Tisch

2 to whether it would be included?

3 A I don't know specifically who made the
4 final decision.

5 Q Would it have been Barry Hirsch?

6 MR. WACHTELL: I object to the form of
7 the question. Are you asking the same question in
8 another way?

9 MR. MAHER: No.

10 Q Could it have been Barry Hirsch?

11 MR. WACHTELL: Could it have been?

12 MR. MAHER: Yes.

13 MR. WACHTELL: He has told you he doesn't
14 know who made the final decision. I don't even
15 understand the question about final decision, but
16 that's another problem.

17 MR. MAHER: Okay.

18 Q Could it have been Barry Hirsch?

19 A You know, I don't know who specifically.
20 This is a statement of Lorillard's position and a
21 reporting of Lorillard's position vis-a-vis this
22 particular issue.

23 Q Do you sign that report at the bottom?

24 A Do I?

25 Q Yes. As the CEO of Lorillard.

1 A. Tisch

2 A No.

3 Q Laurence Tisch and Preston Robert Tisch
4 sign it, don't they, as the CEOs of the Loews
5 Corporation?

6 A As co-chairmen of the board and co-CEOs,
7 that's correct.

8 Q This is basically their letter to the
9 shareholders?

10 A This is their letter stating the
11 positions of the subsidiaries of Loews Corporation.

12 Q So they have adopted and approved what
13 you submitted, assuming that you had no input from
14 anyone else --

15 MR. WACHTELL: Object to the form.

16 Q -- other than Stevens?

17 MR. WACHTELL: Object to the form. If
18 you know, you may answer.

19 A I wouldn't characterize it as adopting
20 and approving. This is a -- this is a statement
21 that they -- I don't want to characterize it as
22 they, Larry and Bob, go to the subsidiaries and say,
23 put your position down on a piece of paper. But the
24 chairman's letter is an adoption of the -- is a
25 compendium of the policies and procedures of each

1 A. Tisch

2 one of the subsidiaries.

3 Q They put their name on it, haven't they?

4 A They have said, these are -- I would
5 characterize this as them putting their names on the
6 bottom of the letter of policies and procedures of
7 each one of the subsidiaries.

8 Q Could they leave out that paragraph that
9 we initially referred to --

10 MR. WACHTELL: Object to the form.

11 Q -- with reference to the position on
12 youth markets and that kind of thing?

13 MR. WACHTELL: Of Lorillard? I object to
14 the form.

15 A I don't know if they could or couldn't.

16 Q Who controls what goes in this? Do you
17 control it? Do you as the CEO of Lorillard control
18 what is placed in this Loews Corporation annual
19 statement?

20 A No.

21 Q Who does?

22 A I don't know who has the final say for
23 Loews Corporation preparing its annual report. But
24 I would point out that if you were to read through
25 this entire chairman's letter, that there are

1 A. Tisch

2 probably inconsistencies -- I would be willing to
3 bet, and I may lose the bet, that in the CNA
4 discussion they talk about there are no smoker
5 discounts.

6 Q Do you find that inconsistent?

7 A Well, it might be inconsistent with some
8 of the things that Lorillard has done.

9 Q How is that inconsistent?

10 A They're giving discounts for people who
11 do not smoke, insurance to people who do not smoke,
12 and Lorillard is in the business of selling
13 cigarettes. That certainly sounds like an
14 inconsistency to me.

15 Q Has that inconsistency been discussed at
16 the board level of Loews Corporation?

17 A Not to my recollection.

18 Q Have you ever been privy to any
19 discussions with Laurence Tisch or Robert Tisch
20 concerning the inconsistency of those two positions?

21 A No.

22 Q Have you ever been --

23 A But I have been aware for many years that
24 CNA offers no smoker discounts.

25 Q Have you ever had discussions of the

1 A. Tisch

2 irony of that with anyone?

3 A Not that I recall, but it is not
4 inconceivable that I would have.

5 Q Would you agree that this last paragraph
6 in the Lorillard section that we referred to
7 previously beginning with "Lorillard continues to
8 support and strictly adhere to voluntary,
9 multifaceted, industry programs to discourage
10 smoking by people under the legal age," and ending
11 with the word "attractiveness" on the following
12 page, continues to be the policy or position of
13 Lorillard and Loews Corporation?

14 MR. WACHTELL: Wait a minute. Those are
15 two different questions. Do you want to break it
16 up?

17 MR. MAHER: No.

18 MR. LONG: I'll do it. That's okay.

19 MR. WACHTELL: You are going to break it
20 up, Gary?

21 MR. LONG: Yes, I will break it up.

22 Q Go ahead and answer it, if you can.

23 MR. WACHTELL: I am going to object to
24 the form of the question. I think it is a compound
25 question. It is also a trick question. It is not

1 A. Tisch

2 worthy of you, Mike.

3 MR. MAHER: I finally made Motley status,

4 hah?

5 MR. WACHTELL: You have been sitting next

6 to Ron too long. You just looked like you were

7 sleeping, you really were imbibing his propensity

8 for trick questions.

9 A Would someone explain the trick to me.

10 Q Basically I am asking you, does this
11 continue to be the position or policy of Lorillard
12 which you presented to Loews for inclusion in the
13 Loews annual report?

14 A I believe this continues to be the policy
15 of Lorillard.

16 Q And you will agree that Loews, as making
17 it part of their annual report, puts a stamp of
18 approval on this particular statement?

19 A No, I wouldn't agree to that.

20 Q Why won't you?

21 A Because I'm not sure what you're driving
22 at.

23 Q Do you believe -- do you have any reason
24 to believe that the Loews board does not -- the
25 Loews Corporation board does not agree with this

1 A. Tisch

2 position?

3 MR. WACHTELL: Well --

4 A I have no reason to believe it doesn't

5 agree with it.

6 MR. WACHTELL: Wait a minute, I am --

7 Q Would you agree that they --

8 MR. WACHTELL: Do you mind? Do you

9 mind? May I note my objection?

10 Your question presumes that the Loews

11 board, as a board, either does or does not take a

12 position on the issue. And I object to the form of

13 the question.

14 Q Do Laurence Tisch and Preston Robert

15 Tisch sign these -- before they sign this document,

16 read it?

17 A I don't know.

18 MR. WACHTELL: You hope so.

19 Q Would you --

20 A I hope they do. But I have never sat

21 with them and watched them read it.

22 Q Would you think, knowing either of those

23 two gentlemen, that they would sign something making

24 this kind of a representation if they didn't

25 subscribe to it and believe it?

1 A. Tisch

2 MR. WACHTELL: Well, if they did not
3 subscribe and believe in the fact that this is
4 Lorillard continues to support. What is your
5 question? The statement is that Lorillard has
6 certain policies.

7 Are you asking him whether he thinks that
8 if they thought that was not Lorillard's policies
9 they would subscribe to the statement? Or is your
10 question something different? What is your
11 question?

12 Q By their signature would you agree that
13 they approve all the representations that were
14 made --

15 MR. WACHTELL: Asked and answered. You
16 can answer again.

17 A I think -- I think if they disagreed with
18 the policy or the procedure, that there would be a
19 lot happening before something like this -- other
20 than something in the form of a statement appearing
21 in the annual report.

22 Q Okay. They wouldn't allow it to be there
23 if they didn't subscribe to it?

24 MR. WACHTELL: No, he didn't say that.

25 A I didn't say that.

1 A. Tisch

2 If they didn't ascribe to it, or if they
3 didn't agree with the policies and procedures as
4 adopted by various subsidiaries, I think they would
5 have exercised their concern in other forms before
6 it got to the annual report.

7 Q Did Gary Garson ever have anything to do
8 with establishing a policy or positions for
9 Lorillard?

10 A Not to my knowledge. I don't think
11 that -- I don't think he would have. Gary works for
12 Loews, not Lorillard.

13 (Pause.)

14 Q If Lorillard decided to stop making
15 cigarettes what would you expect that Loews would
16 do?

17 A I'm not -- I don't understand that
18 question.

19 Q Do you think it would ever get to the
20 point that Lorillard would stop making cigarettes
21 without consulting the parent?

22 A Loews Corporation, as the shareholder,
23 the owner of the shares of Lorillard, would --
24 concerns itself with significant changes in the way
25 Lorillard does business.

1 A. Tisch

2 I would think that a Lorillard decision
3 to stop making cigarettes would be significant
4 enough that Loews would be advised of such.

5 Q Do you think that Lorillard would decide
6 on its own to submit to FDA regulations without
7 consulting the parent?

8 MR. WACHTELL: Object to the form.
9 Hypothetical.

10 Q Loews Corporation.

11 MR. WACHTELL: Object to the form as
12 hypothetical. You can answer.

13 THE WITNESS: May I answer?

14 MR. WACHTELL: Yes. If you are capable
15 of answering, answer it.

16 A I think that the decision that -- a
17 decision to subject to FDA approval would be made
18 specifically by Lorillard. They're the ones who
19 have the expertise in the area and deal with these
20 issues on a daily basis. And whether Lorillard
21 chose to advise Loews or not is questionable.

22 I would presume that they would probably
23 advise Loews if such a decision were to be made, but
24 they have the expertise.

25 Q What do you think Loews would do if, in

1 A. Tisch

2 fact, they did -- Lorillard did announce that they
3 were submitting FDA regulations?

4 MR. WACHTELL: Object to the form of the
5 question as entirely hypothetical.

6 A When you say announce, you're saying
7 announce to the public without letting Loews know
8 beforehand or --

9 Q Sure.

10 A I think we'd be somewhat surprised.

11 Q You'd expect to be consulted on it,
12 wouldn't you?

13 A We'd expect to be advised on it. We,
14 Loews Corporation, would expect to be advised by
15 Lorillard. This would be a significant issue.

16 Q In truth, as you sit there, can you tell
17 us that if the Loews -- if Loews Corporation was
18 presented with a position that Lorillard was going
19 to submit to FDA regulations, that you would give
20 them your blessing?

21 MR. WACHTELL: Excuse me? Could I hear
22 that back.

23 (Question read.)

24 MR. WACHTELL: Object to the form of the
25 question on so many grounds that I won't even bother

1 A. Tisch
2 to articulate them. If you're capable of answering
3 the question, answer it.

4 A You're asking me a very hypothetical
5 question, and I'm giving you an answer that is
6 probably equally hypothetical.

7 But if Lorillard were to advise Loews
8 that they felt that it was advisable for them to
9 submit to FDA regulations, I personally, and I may
10 be speaking for the other people on the management
11 committee and executive committee of Loews, have
12 enough respect for their opinions that we would
13 almost certainly agree with their opinions.

14 Q Without discussion or direction?

15 MR. WACHTELL: Is that a question? Wait
16 a minute. Is that a question?

17 MR. MAHER: That's a question.

18 MR. WACHTELL: I don't understand.

19 Q You would agree with their decision
20 without discussion or direction?

21 MR. WACHTELL: Well, it is two different
22 questions.

23 A Would we --

24 MR. WACHTELL: Object to the form.

25 A Would we discuss it? I personally would

1 A. Tisch
2 like to know the thinking behind it. I think I
3 would ask that. If that characterizes discussion,
4 then the answer is yes.

5 Q Would you attempt to persuade them
6 against it if you felt that it wasn't in the best
7 interests of Loews Corporation?

8 A If I felt it was not in the best
9 interests of Loews Corporation, then --

10 MR. LONG: I object. We're getting into
11 speculation, counterspeculation now, you're asking
12 him a hypothetical which doesn't accord with the
13 answer he gave earlier. This is just running wild
14 here.

15 MR. WACHTELL: I adopt that. I also
16 object to the form.

17 MR. MAHER: Gary, who is your objection
18 on behalf of?

19 MR. LONG: Lorillard.

20 MR. MAHER: Okay.

21 A Give me the question again.

22 MR. WACHTELL: I have the feeling from
23 these form of questions that you have run out of
24 meaningful questions and so you are now engaged in
25 hypothetical, conjecture and speculation. If you

1 A. Tisch

2 really don't have anything else to ask, can we
3 adjourn?

4 Q Do you want to answer the question?

5 THE WITNESS: Yes, we can adjourn.

6 Will someone repeat the question that
7 is -- that you have asked.

8 MR. MAHER: Go ahead and read it back,
9 please.

10 (Question read.)

11 A There are specific mechanisms that are in
12 place to persuade if we felt that it was not in the
13 best interests of Loews Corporation. But one thing
14 that I would want to know is what their thinking was
15 behind it.

16 Typically, we have relied very heavily on
17 their expertise and their knowledge of the issues
18 and have gone along with their thinking.

19 Q Have there ever been any discussions
20 between Lorillard and Loews Corporation as to
21 whether or not it would be appropriate to publicize
22 the health risks of smoking?

23 A Not in my recollection.

24 Q If, in fact, Lorillard decided to
25 publicize the health risks of smoking, what would

1 A. Tisch

2 Loews do?

3 MR. WACHTELL: Lorillard does publicize
4 the health risks of smoking. It does it on every
5 pack of cigarettes it sells. So I don't understand
6 your question.

7 Q Do you adopt your counsel's testimony?

8 A Yes.

9 MR. WACHTELL: I mean, your question
10 presumes a fact contrary to what everybody in this
11 nation knows.

12 Q If Lorillard decided to publicize that
13 smoking causes cancer, what would Loews do?

14 MR. WACHTELL: Object to the form of the
15 question on any number of different grounds. Again,
16 unless you want me to articulate them I wouldn't.
17 Hypothetical, presumes facts not established, et
18 cetera, et cetera.

19 MR. MAHER: You don't have to articulate
20 them.

21 Q Go ahead.

22 MR. WACHTELL: I can't resist. But I
23 haven't exhausted my compendium. Anyway, you can
24 answer.

25 THE WITNESS: Well, will you read the

1 A. Tisch

2 question back to me, please.

3 (Question read.)

4 A First of all, are you establishing that
5 Lorillard believes that smoking causes cancer?
6 Because I can't ascribe to that.

7 Q The question I asked was, assume that
8 Lorillard decided to publish that there are health
9 risks of smoking, and particularly that smoking
10 causes cancer.

11 MR. WACHTELL: That's two different
12 questions.

13 A The first assumption you're making is
14 that Lorillard has decided that, and I don't know
15 that they have decided that.

16 Q Have you decided it as a board member of
17 Loews Corporation?

18 MR. WACHTELL: Decided what?

19 MR. MAHER: That smoking does or doesn't
20 cause cancer.

21 A Isn't that --

22 MR. WACHTELL: No. Your question
23 presumes that as a board member he has been called
24 upon to make a decision on that subject.

25 MR. MAHER: No.

1 A. Tisch

2 MR. WACHTELL: Well, it does.

3 Q Have you made any conclusion in your mind
4 as to whether or not smoking could be related to
5 cancer?

6 MR. WACHTELL: What does that have to do
7 with jurisdiction over Loews in Florida? I direct
8 him not to answer.

9 Q Back to the original question.

10 If Loews -- if Lorillard decided to
11 publicize the health risks of smoking as it relates
12 to smoking being a potential cause of cancer, what
13 would Loews do?

14 MR. WACHTELL: Object to the form of the
15 question.

16 THE WITNESS: May I --

17 Q Yes. He didn't instruct you not to.

18 A Okay.

19 MR. WACHTELL: No, I didn't instruct
20 you. I'm not sure the question is susceptible to an
21 answer. But if you think you can answer it, go
22 right ahead.

23 A I would characterize it the same way as
24 the prior question, vis-a-vis the FDA. That I would
25 expect that Lorillard would advise Loews of their

1 A. Tisch

2 decision, and that Loews would agree with
3 Lorillard's or concur with Lorillard's conclusions.

4 Q Would you think that Lorillard on a
5 decision of that monumental proportion would discuss
6 the matter with Loews before they made the decision?

7 MR. WACHTELL: Your question presumes
8 that this was something of monumental proportions or
9 dimensions. I think your prior question, as I
10 recall it, had to do with whether there were health
11 risks.

12 It is my understanding that Lorillard
13 either directly or through industry organizations
14 has long publicly taken that position. So I don't
15 know what your monumental dimensions has to do with
16 anything. I don't think there is anything
17 monumental about the question you put.

18 Q Go ahead.

19 MR. WACHTELL: What is it that you have
20 Lorillard hypothetically stating? I think we better
21 get clear questions here.

22 MR. MAHER: That a health risk of smoking
23 is that it potentially causes cancer.

24 MR. WACHTELL: And what is the question
25 to the witness?

1 A. Tisch

2 Q Is that the type of decision that would
3 be discussed by the subsidiary before any final
4 decision was reached as to publicizing --

5 MR. WACHTELL: That is a version of what
6 the witness has been telling you. The witness has
7 not been telling you that they discuss anything with
8 Loews before a final decision is made. He has been
9 telling you that he would hope that when they make
10 final decisions on matters of material policy issues
11 and the like that they would advise Loews before
12 they publicly announce it.

13 Q Do you understand the question?

14 A No.

15 Q Basically, I am asking you, is this a
16 kind of thing of importance, of a degree of
17 importance that you would expect that Lorillard
18 wouldn't go off and be making decisions like this
19 without a lot of discussion and input?

20 A Lorillard has the expertise to make that
21 type of decision on their own. And -- you're
22 dealing in such a hypothetical here that --

23 Q If they were --

24 MR. WACHTELL: Wait. You're interrupting
25 the witness mid-answer.

1 A. Tisch

2 Q I am sorry. Go ahead.

3 A It is so speculative, it is so
4 hypothetical, that there probably is not a valid
5 answer that I could give you because we're not
6 dealing in the realm of reality at this point.

7 Q It probably never, never happened is what
8 you're saying?

9 MR. WACHTELL: Well, the witness --

10 A No, that's not what I am saying.

11 MR. WACHTELL: The witness is saying what
12 the witness is saying. Do you have a question?

13 Q The speculative nature of this occurring,
14 what you're saying is that probably something like
15 this would never occur?

16 A No.

17 MR. WACHTELL: No. It is the speculative
18 nature of your question.

19 A If you want to ask me about what has
20 happened in reality, I can at least answer from
21 what's happened in the past.

22 Q Have there ever been any discussions
23 about submitting to FDA regulations, to your
24 knowledge?

25 MR. WACHTELL: Between Loews and

1 A. Tisch

2 Lorillard?

3 A Between Loews and Lorillard?

4 Q Yes.

5 A Not to my knowledge.

6 Q Have there ever been any discussions by
7 Lorillard to submit to FDA regulations?

8 MR. WACHTELL: Object to the question.
9 Direct the witness not to answer.

10 Q Have there ever been any discussions with
11 Lorillard to publicize the health risks of smoking
12 as it relates to potentially causing cancer?

13 MR. WACHTELL: Object to the form of the
14 question. Direct the witness not to answer. You
15 can certainly ask whether that has been discussed
16 with Loews.

17 (Pause.)

18 Q I am going to hand to you a document that
19 is noted as Plaintiffs' Exhibit Number 1 that
20 contains some resolutions and a recommendation of
21 the board with relation to proposal number 8. And I
22 want you to specifically -- you can look at the
23 whole thing, if you would like, but particularly the
24 language I am going to ask you about is right here
25 (indicating), okay?

1 A. Tisch

2 A Okay.

3 MR. WACHTELL: Just as a matter of
4 housekeeping, Mike, you have a Plaintiffs' Exhibit 1
5 on Larry Tisch's deposition that is different than
6 this. This is Plaintiffs' --

7 MR. MAHER: Yes. This is Plaintiffs' 1
8 in James Tisch's depo. Thank you. I appreciate
9 that clarification.

10 MR. WACHTELL: Which stockholder proposal
11 are you --

12 A Is this proposal number 8 you're talking
13 about?

14 Q Yes. I think that's 1995, isn't it, up
15 at the top?

16 A It is page 40 whatever it is.

17 MR. WACHTELL: It is page 40 of a
18 computer printout. It was faxed to the Peninsula
19 Hotel. I am glad that counsel for Florida stay at
20 the Peninsula Hotel.

21 MR. MAHER: Not me.

22 MR. WACHTELL: Some counsel for Florida
23 are rich enough to own the Peninsula Hotel.

24 (Witness reviewing.)

25 A Okay.

1 A. Tisch

2 Q As it relates to the page noted as 42 and
3 43 beginning at the bottom of page 42 it says, four
4 lines, or five lines up, "The board of directors
5 recommends a vote against proposal number 8." Then
6 it begins, "For over 30 years, Lorillard and other
7 cigarette manufacturers have opposed smoking by
8 minors." And ends on the next page with,
9 "Accordingly, the board of directors recommends a
10 vote against this proposal."

11 MR. WACHTELL: There is other stuff in
12 between.

13 Q With other stuff in between.

14 A Right.

15 Q Did you have anything to do with the
16 development of that language for Loews Corporation?

17 A What year was this?

18 Q 19 -- it looks like 1996.

19 A Probably not. I may have had some input
20 based on some prior input I had when I was CEO of
21 Lorillard on similar-type proposals, because these
22 types of proposals have been presented to Loews
23 shareholders over a number of years.

24 Q Okay. The same type of proposal by the
25 same type of -- by the same shareholders, actually,

1 A. Tisch

2 correct?

3 A Actually, by the same shareholders, I
4 believe.

5 Q And the position has been the same for
6 several years? The response position of Lorillard's
7 and the recommendation?

8 A I believe substantively the position
9 has -- the position by the Loews board of directors
10 has been the same for -- since these proposals began
11 to be introduced.

12 Q Do you know who developed that general
13 position?

14 A I don't know who specifically developed
15 that, but certainly as CEO of Lorillard, both I and
16 my general counsel did have input into that.

17 Q Would the putting together of this
18 position of recommendation for the Loews board
19 involve active participation by Loews Corporation
20 general counsel or deputy general counsel?

21 MR. WACHTELL: Object to the form.

22 Q Hirsch or Garson?

23 MR. WACHTELL: Object to the form. You
24 can answer, if you know what role they played, if
25 any.

1 A. Tisch

2 A I would presume that they would have
3 worked to put together the position. But that's a
4 presumption on my part.

5 Q And this is generally true of years
6 before? This is kind of a standard operating
7 procedure?

8 A Yes. The general counsel would receive
9 the shareholder proposal, and he would, I presume,
10 be the one that would -- have to be the one to put
11 together the response for approval by the board of
12 directors.

13 Q Would you term this as a position,
14 policy, or how would you term it?

15 A This is --

16 MR. WACHTELL: What is this?

17 MR. MAHER: The paragraph that we
18 referred to.

19 MR. WACHTELL: It is a recommendation by
20 the board. Are you referring to something different
21 than that?

22 Q Do you consider this a statement of
23 policy or not?

24 A No. I consider this a recommendation by
25 the board.

1 A. Tisch

2 Q Do you consider it a position that the
3 board is taking?

4 MR. WACHTELL: I think he just told you,
5 he considers it a recommendation by the board to the
6 stockholders.

7 Q Do you consider it a position the board
8 is taking?

9 A No. I consider it a recommendation.

10 Q Do you consider that the board is
11 presenting this paragraph as a truthful statement of
12 their position?

13 A I think that the board is recommending
14 that the shareholders vote against the proposal
15 because of the reasons as delineated in the
16 response.

17 Q And the response is presented by the
18 board as to what they believe to be a truthful
19 statement?

20 MR. WACHTELL: As to what Lorillard has
21 been doing. Is that your question?

22 MR. MAHER: No.

23 MR. WACHTELL: Well, then, what is your
24 question?

25 Q Are --

1 A. Tisch

2 MR. WACHTELL: Look --

3 Q The board --

4 MR. WACHTELL: Mike, I am sorry, I am
5 sorry. A recommendation is a recommendation. There
6 are then facts set forth in support of the
7 recommendation.

8 Are you asking whether the board believes
9 that the facts are true? What is your question? If
10 you would just say what the question is, the witness
11 can answer it. I think you're playing a game here.

12 Q Does the board -- is the board presenting
13 this statement as a truthful statement?

14 MR. WACHTELL: What is this? Is it the
15 board's stating that the facts recited --

16 MR. MAHER: The paragraph that starts --
17 in fact, I will read the whole paragraph. "For over
18 30 years, Lorillard remained" --

19 MR. WACHTELL: No, that is not the whole
20 paragraph. That is not the whole paragraph. The
21 paragraph starts, "The board of directors recommends
22 a vote against..."

23 A recommendation is not a fact. It is an
24 opinion. There are then facts that the witness has
25 told you are recited in support of the

1 A. Tisch

2 recommendation.

3 Are you now asking whether the
4 recommendation is true, whether the facts recited
5 were believed by the board to be true? What is your
6 question?

7 All you have to do is tell us what your
8 question is and he can answer it.

9 Q Do you understand the question?

10 A No.

11 Q Okay. As it relates to the paragraph
12 we're referring to --

13 A From "The board of directors recommends"?

14 Q From "The board of directors recommends a
15 vote against proposal number 8." The following
16 paragraph seems to state a position that the board
17 has taken in support of their recommendation for a
18 vote against proposal number 8.

19 MR. WACHTELL: Object to form. It
20 doesn't seem to --

21 Q Am I correct?

22 MR. WACHTELL: No. It doesn't seem to
23 state anything of that sort, and I object to the
24 question as to form.

25 Q Go ahead. Am I incorrect?

1 A. Tisch

2 A Incorrect about what?

3 Q That it is stating a position in support
4 of their recommendation?

5 A Because Lorillard has enunciated their
6 position as delineated in the paragraph below.

7 Q Is the board adopting this as being the
8 basis for their recommendation for a vote against
9 proposition -- proposal number 8?

10 MR. WACHTELL: Object to the form. You
11 are misstating what is there. I think -- I don't
12 know what game you're playing but you're just
13 misstating what is there.

14 The board is stating its understanding of
15 certain facts of what Lorillard does, and is using
16 that statement as the basis of a recommendation.

17 What is it you're asking?

18 Q Is the board accepting this paragraph as
19 a true statement?

20 MR. WACHTELL: Is your question whether
21 the board believes that those are true facts as to
22 Lorillard? Is that the question?

23 MR. MAHER: Correct.

24 MR. WACHTELL: Fine. That's a question I
25 can understand.

1 A. Tisch

2 MR. MAHER: Okay.

3 A The board accepts this as facts, as facts
4 presented by Lorillard.

5 Q True facts?

6 A Are there false facts?

7 Q I don't know. True facts?

8 A As facts.

9 Q True facts?

10 A I said as facts.

11 MR. WACHTELL: I think the witness is
12 saying --

13 Q Untrue facts?

14 MR. WACHTELL: I think the witness is
15 saying it is a tautology that a fact by definition
16 is a fact. If it is a fact, it's true.

17 Q Is that correct?

18 MR. WACHTELL: That's a pretty fancy
19 word, "tautology," isn't it?

20 Q Do you accept your counsel's
21 characterization of what your answer should be?

22 A Yes, I --

23 MR. WACHTELL: No. He gave you the
24 answer, Mike, and you're playing games here, really
25 wasting time. It is not my characterization. It

1 A. Tisch

2 was his.

3 MR. MAHER: I think --

4 MR. WACHTELL: I just supplied the fancy
5 word "tautology."

6 MR. MAHER: I think the judge can read
7 what you're saying and get an idea as to what is
8 happening.

9 MR. WACHTELL: Do you want to have it
10 read back? The witness told you that he didn't know
11 that there was any fact other than a true fact. And
12 I then provided, probably mistakenly, the fancy word
13 "tautology," which probably should never be used in
14 any litigation. I'll try never to use it again.

15 MR. MAHER: I explained yesterday that
16 Florida has taken a bit of a different position than
17 they have in the past as it relates to suggestive
18 commentaries by counsel. And they are getting
19 extremely critical of people that suggest responses
20 to the deponent.

21 MR. WACHTELL: I am not making any
22 suggestions to this deponent. But when you have
23 asked the question of the witness and he has
24 answered you three times, at some point, because you
25 seem not to hear the answer, or choose not to hear

1 A. Tisch

2 the answer, a point comes where one does wish to
3 point out to you what the witness is saying to you
4 and has said to you.

5 Now do you have a question, Mike?

6 Because otherwise we just have harassment going on
7 here.

8 Q As it relates to the paragraph we have
9 been referring to, the board of directors, you have
10 indicated, takes the statements contained therein as
11 being fact.

12 I would assume that the board of
13 directors has placed trust in Lorillard in
14 presenting those facts and accepts them as fact; is
15 that correct?

16 A That is correct.

17 (Pause.)

18 Q We were given some copies of proxy
19 statements -- excuse me -- of minutes of board
20 meetings of the board of directors of Loews. I am
21 going to hand to you the first one. It appears that
22 you were in attendance. In fact, it looks like
23 2/21/95.

24 I would assume that your capacity would
25 be as the CEO of Lorillard at that point this time.

1 A. Tisch

2 MR. WACHTELL: No. His capacity would be
3 as a director of Loews.

4 MR. MAHER: Okay. Or both.

5 A No.

6 Q No?

7 A No. My attendance at Loews board
8 meetings is as a director of Loews.

9 Q So that when you give a report as it
10 relates to Lorillard, at that board meeting do you
11 take off your board hat and put on your CEO hat?

12 A No.

13 Q Don't you as the -- when you were chair
14 of -- excuse me -- CEO of Lorillard didn't you make
15 reports to the Loews board meetings as to what was
16 going on with Lorillard?

17 A Each one of the subsidiaries is presented
18 by a director of what goes on in each one of the
19 subsidiaries. I reported what was going on at
20 Lorillard. I happened to be by coincidence the
21 chairman and CEO of Lorillard. I also reported on
22 what was going on at Bulova. I had no relationship
23 to Bulova whatsoever at the time.

24 Q Okay.

25 A No outside -- no person outside the board

1 A. Tisch

2 of directors attends the Loews board meeting with
3 the exception of the general counsel and the chief
4 financial officer.

5 Q And neither of them are board members?

6 A That is correct.

7 Q As it relates to these particular
8 minutes, are you able to tell from reviewing these
9 minutes as to whether they're complete?

10 A First of all, I'd have to read them.

11 Q Go ahead. It won't take you long.

12 (Witness reading.)

13 MR. LONG: Are you basically asking
14 whether there have been any redactions?

15 MR. MAHER: I am asking him to review it
16 and tell me whether it is complete. So I guess if
17 there have been redactions, he would know but I
18 wouldn't.

19 A What's the question?

20 Q Does that fully reflect the minutes of
21 the board meeting of that date? What is the date?
22 February the --

23 A February 21, 1995.

24 To the best of my knowledge, it does.

25 Q Does it appear that there is anything --

1 A. Tisch

2 MR. WACHTELL: Hold it.

3 MR. LONG: There are clearly redactions
4 on there. That is not an issue, is it?

5 MR. WACHTELL: It reflects the minutes to
6 the extent that there was a request which has been
7 responded to in this litigation. Stuff that had
8 nothing to do with the request has been redacted
9 out.

10 MR. BOFFA: As I told you yesterday.

11 A If you're showing --

12 MR. MAHER: Who determined -- you
13 determined as to whether it is relevant or not in
14 making those redactions, correct?

15 MR. WACHTELL: A determination has been
16 made, as it always is, by counsel in responding to a
17 document request in any litigation which documents
18 or portions of documents have anything to do with
19 the request that has been made.

20 Are you challenging that?

21 MR. MAHER: I am challenging your
22 conclusion about whether something is relevant or
23 not may not be the same as mine or the judge's.

24 MR. WACHTELL: Why don't you challenge it
25 before the Court then.

1 A. Tisch

2 MR. MAHER: We will.

3 MR. WACHTELL: Fine.

4 MR. MAHER: But all I am trying to do is
5 establish for the record some things.

6 MR. WACHTELL: Mr. Boffa just said that
7 he told you yesterday that this was redacted.

8 BY MR. MAHER:

9 Q Is there anything of substance that was
10 conducted at that board meeting reflected in those
11 minutes?

12 A If you're now telling me that these are
13 not the complete minutes of the February 21st board
14 meeting, there have been certain items that were
15 taken out of it, then of course not.

16 Q Do you have any recollection of that
17 meeting?

18 A Not specifically.

19 Q Do you have any general recollection of
20 what took place at that meeting?

21 A No.

22 Q Have you reviewed prior to this
23 deposition those minutes, other than in your
24 capacity as a board member at the next meeting, have
25 you reviewed them in preparation for the deposition?

1 A. Tisch

2 A No.

3 Q Have you been consulted as to what was
4 redacted from those minutes?

5 A No.

6 Q So you have no particular knowledge of
7 what material was contained in the redactions?

8 A That is correct.

9 Q Thank you.

10 (Pause.)

11 Q At that board meeting and others
12 generally, was there, as a rule, a report given by
13 all subsidiaries as part of the board meeting?

14 MR. WACHTELL: Object to the form of the
15 question. The witness told you the reports were
16 given with respect to subsidiaries and not by
17 subsidiaries.

18 Q Go ahead.

19 THE WITNESS: Would you repeat the
20 question, please.

21 (Question read.)

22 Q On behalf of all subsidiaries.

23 MR. WACHTELL: No. I still object to the
24 form. You can answer.

25 A A Loews Corporation director reported on

1 A. Tisch

2 the results of each subsidiary.

3 Q At all board meetings?

4 A Typically, I would say that it is the
5 rule, and there may be exceptions to the rule, from
6 one meeting to another results of -- significant
7 issues of each division -- I am sorry -- each
8 subsidiary are reported.

9 Q Are board meetings recorded by machine?

10 A No, not to my knowledge.

11 Q Are minutes taken by the secretary of the
12 board?

13 MR. WACHTELL: I don't understand the
14 question. I object to the form.

15 A Minutes characterized as being something
16 other than -- something like this in its full
17 version?

18 Q Yes.

19 A This is the minutes that are taken.

20 Q Is a secretary generally responsible for
21 assembling that?

22 A Yes.

23 Q And taking notes, whatever, so that there
24 is an accurate reflection of what went on at the
25 board meeting?

1 A. Tisch

2 A Yes.

3 Q As it relates to this particular board
4 meeting and others generally, give me an idea as to
5 what sort of discussions might have gone on about
6 Lorillard at that kind of meeting? The typical,
7 where you are economically and that kind of thing,
8 or what?

9 A Do you want me to characterize my
10 typical --

11 Q Yes, that would be great.

12 A -- report to? Typically, I would report
13 on the unit sales results for the previous month and
14 year-to-date. I would talk about the financial
15 results for the previous month and year-to-date.
16 And I would talk about some of the key issues that
17 were being faced by the company. And I would
18 characterize those typically as marketing and
19 sales-related issues.

20 Q Would you ever in doing a Lorillard
21 report talk about the status of any litigation?

22 A It has happened.

23 Q Have you ever in giving your report on
24 Lorillard talked about the Florida statute that we
25 previously referred to as to Medicaid recovery?

1 A. Tisch

2 A I don't believe that I had, but I can't
3 be sure of that.

4 Q Has there ever been any general
5 discussion of that type of statute and that other
6 states may be looking at them?

7 A There may have been, but I don't recall
8 specifically. But if it were, it would typically be
9 a -- I would imagine it would have been a one or
10 two-sentence report.

11 Q Is there generally discussion that
12 emanates from these reports, or questions that are
13 asked by board members?

14 A Not too often. But there have been
15 questions, follow-up questions.

16 Q Have there ever been any discussions at
17 those board meetings as it relates to Lorillard's
18 positions on FDA regulation?

19 A Not to my recollection.

20 Q How about health and smoking?

21 A Not to my recollection.

22 Q Has there ever been any board discussion
23 at a board meeting concerning the Harley-Davidson
24 brand?

25 MR. WACHTELL: We are still talking about

1 A. Tisch

2 a Loews board meeting, correct?

3 MR. MAHER: Loews board meeting. Yes.

4 A Yes. I do remember some discussions.

5 Q Tell me about that.

6 A Well, I would characterize that in two
7 different categories.

8 First was in the sales results category,
9 simply reporting because it was a new brand that was
10 of interest, something that was happening in our
11 marketing area that I would have reported on.

12 And secondly, the second characterization
13 would be concerning the litigation involving
14 Harley-Davidson.

15 Q What was the discussion about the
16 litigation?

17 A It was a report to the board of Loews
18 that a litigation had been commenced.

19 Q Any additional information?

20 A If I remember correctly, it was over a
21 period of several meetings that I would report on
22 the status of the discussions of that particular --
23 I forget whether it was a litigation per se or a
24 threatened litigation.

25 Q Was there ever any --

1 A. Tisch

2 A I believe there was a suit that was
3 filed.

4 Q Was there ever any discussion at the
5 board level concerning the recommendation to vote
6 against proposal number 10, which I am going to hand
7 you generally a copy of, which is noted as
8 Plaintiffs' Exhibit 3 to James Tisch's deposition
9 (handing)?

10 (Witness reviewing.)

11 A Okay.

12 Q Was there ever any board discussion
13 concerning the formulation of the language in
14 support of the recommendation?

15 A Board discussion by Loews Corporation?

16 Q Yes.

17 A I do not believe so. I believe that -- I
18 would characterize it more as an approval of the
19 language that was put in this proposal.

20 I don't recall a specific discussion
21 about any such language.

22 Q Was there any input from any board member
23 that you know of to the development of this
24 language?

25 A I don't know.

1 A. Tisch

2 Q Do you know who developed the language?

3 A I don't know.

4 Q Was this language that would have been

5 approved by Loews Corporation?

6 A Well, it was --

7 MR. WACHTELL: Object to the form.

8 Q By the board of directors?

9 A It was approved by the board of
10 directors.

11 Q Do you think that Barry Hirsch had some
12 input in the development of that language?

13 MR. WACHTELL: Object to the form.

14 Q The language beginning on page 48,
15 "Lorillard does not permit the cigarette brands it
16 owns to be used on toys," and ending with,
17 "Accordingly, the board of directors recommends a
18 vote against this proposal"?

19 A Well, this was --

20 Q And there were several sentences in
21 between.

22 A These are factual statements from
23 Lorillard. So I would presume that Lorillard
24 developed the rationale.

25 Q I am asking basically for your knowledge,

1 A. Tisch

2 specific knowledge at this point --

3 A I don't have any specific knowledge.

4 Q -- whether Barry Hirsch did or didn't
5 input this.

6 A I don't have any specific knowledge on
7 this.

8 Q Thank you. Looking at page 47, the
9 language beginning, "Harley-Davidson has licensed
10 its name and logo to at least three toy
11 manufacturers who sell more than twenty different
12 Harley-Davidson toys for various ages, beginning
13 with three and above," was there any ever any
14 discussion of that position by the Loews board?

15 MR. WACHTELL: Object to the form of the
16 question on two different grounds. One, he has
17 already told you he doesn't recall a discussion of
18 the proposal of the Loews board. Second place, I
19 think you are mischaracterizing the nature of the
20 statement.

21 Q Go ahead.

22 A The question being?

23 Q Was there ever any discussion of that
24 particular sentence?

25 A Not that I can recall.

1 A. Tisch

2 Q Has there ever been any discussion of
3 that particular sentence at a Lorillard board
4 meeting?

5 A Not that I can recall.

6 Q Has there ever been any discussion of
7 that particular sentence or the tenor of it between
8 yourselves and Laurence --

9 MR. WACHTELL: One second.

10 Q -- Laurence Tisch and --

11 MR. WACHTELL: One second.

12 MR. MAHER: I am not finished with my
13 question yet.

14 MR. WACHTELL: I know, but I am
15 commenting on the last question.

16 This is the 1996 proxy statement. When
17 you are asking him whether there was a discussion of
18 that at the Lorillard board, he wasn't on the
19 Lorillard board, as I think you know.

20 Q Okay.

21 A At the time.

22 Q To your knowledge, was there any
23 discussion at the Lorillard level?

24 A To my knowledge, no.

25 Q Was a similar proposal such as this one

1 A. Tisch

2 made in the year previous to 1996?

3 MR. WACHTELL: With respect to

4 Harley-Davidson?

5 MR. MAHER: Yes.

6 A It may have been but I don't remember
7 specifically.

8 Q How about 1995 -- 1994? Excuse me.

9 A It may have been. I do recall that there
10 was a -- at one of the Loews annual meetings someone
11 showed a Harley-Davidson toy. And that was the
12 first time I was made aware of the existence of such
13 a toy.

14 Q When do you think that was?

15 A It was either '94 or '95.

16 Q Do you know who that was that showed the
17 toy?

18 A I believe it was Dr. John Slade.

19 Q Who is he?

20 A He is a, I believe, a shareholder of
21 Loews who has regularly attended the Loews annual
22 meetings. S-L-A-D-E.

23 Q Was there any discussion beyond showing
24 the toy?

25 A I believe that he questioned why

1 A. Tisch

2 Lorillard would be marketing a cigarette when there
3 is such a toy.

4 Q Was there any response?

5 A Well, like I said, this was the first
6 time I had been made aware of such a marketing
7 effort by Harley-Davidson. And we -- I believe the
8 response was that we would look into it.

9 Q Okay. Who made the response?

10 A Probably it would be Laurence Tisch.

11 Q This is as the chair of the meeting?

12 A As the chair of the meeting. That's
13 correct.

14 Q Was there any follow-up on that?

15 A Well, as part of the total follow-up,
16 Harley-Davidson and Lorillard agreed that there
17 would be a cessation of the marketing of
18 Harley-Davidson cigarettes.

19 Q Did -- after that meeting did Laurence
20 Tisch ask to be brought up to date or direct that it
21 be determined whether or not they're doing these
22 toys and how many of them and this kind of thing?

23 A Did he ask specifically?

24 Q Yes.

25 A I don't believe so.

1 A. Tisch

2 Q Was there -- if there was follow-up, tell
3 me how it happened and who was making it happen.

4 A The CEO of Lorillard -- I was the CEO at
5 the time, and it was just presumed that I would
6 follow up on it and make sure that there was a
7 policy consistent with what Lorillard was doing.

8 Q You did follow up on it?

9 A The ultimate result of the follow-up and
10 a whole number of other factors was the agreement to
11 cease marketing Harley-Davidson cigarettes.

12 Q When?

13 A The conclusion of that was after my
14 tenure as CEO of Lorillard. However, it was
15 initiated during my tenure.

16 Q Who agreed on the 2001 date?

17 A Harley-Davidson, obviously, and the CEO
18 and chief operating officers of Lorillard.

19 Q Did you -- were you involved in the
20 discussions of that date?

21 A No.

22 Q As a CEO?

23 A No. That was after my -- after my
24 termination as CEO.

25 Q Was there any date mentioned in the

1 A. Tisch

2 discussions while you were still CEO?

3 A Not to my recollection.

4 Q Did you ever report back to Laurence

5 Tisch as to what you had found out about

6 Harley-Davidson toys and that kind of thing?

7 A I reported back to the board on the

8 results of the discussions of Harley-David -- with

9 Harley-Davidson.

10 Q Did you determine that the proposal that

11 was made by Dr. Slade that, number one,

12 "Harley-Davidson has licensed its names and logos

13 to at least three different toy manufacturers who

14 sell more than 20 different Harley-Davidson toys for

15 various ages, beginning with three and above,

16 Harley-Davidson brand bicycles have been advertised

17 on television, Harley-Davidson stores sell

18 Harley-Davidson branded clothing in children's

19 sizes, a large sign promoting Harley-Davidson is

20 located on the outfield fence of the Brewers Stadium

21 in Milwaukee where it is clearly seen during

22 televised broadcasts of baseball games, and

23 Harley-Davidson branded toys and clothing,

24 television and advertising and stadium signage

25 promote Harley-Davidson brand cigarettes," did you

1 A. Tisch

2 determine that all of those statements were
3 accurate, in your investigation?

4 A I wouldn't characterize it as an
5 investigation, per se.

6 Q Follow-up.

7 A Part of my follow-up?

8 Q Yes.

9 A I didn't think that it was necessary to
10 go and specifically determine each one of these as
11 facts. At that point, that and other issues caused
12 us to believe that we should work with
13 Harley-Davidson to discuss how we can terminate the
14 agreement.

15 Q Did you report back to Laurence Tisch as
16 to your findings?

17 A As I said before, I reported back to
18 Laurence Tisch as part of a board report on the
19 results of our discussions with Harley-Davidson.

20 Q And what --

21 A I don't want to say our discussions
22 because I did not sit face to face with the
23 Harley-Davidson executives or lawyers. So I'm
24 taking it on -- that was during and after my tenure
25 as CEO.

1 A. Tisch

2 Q As far as the statements contained on
3 page 47 that I have read before, was there ever any
4 conclusion by you as a CEO of Lorillard, you as a
5 board member of Loews, or the board of Loews, that
6 those statements were truthful or untruthful?

7 A The fact that John Slade stood there with
8 a Harley-Davidson motorcycle in his hand --

9 MR. WACHTELL: Toy motorcycle?

10 THE WITNESS: Toy motorcycle.

11 MR. WACHTELL: Not one that goes running
12 around on the highways.

13 A He is not particularly strong -- a toy
14 motorcycle, was proof enough to me of the existence
15 of such a toy. Whether there is a sign at the
16 Milwaukee Brewers Stadium or not, which may or may
17 not have violated the rules of the advertising code,
18 that I never did.

19 Q Had you ever been advised prior to that
20 shareholders' meeting by Dr. Slade or anyone that
21 Harley-Davidson had toys, and there was a
22 Harley-Davidson brand bicycle and it sells brand --
23 Harley-Davidson branded clothing in children's
24 sizes, prior to that meeting?

25 A Not to the best of my recollection. No.

1 A. Tisch

2 Q To your knowledge, in your follow-up did
3 you ever find out that anybody had been told at
4 Lorillard or Loews Corporation about these toys and
5 products?

6 A No, I did not find out any such
7 information.

8 Q Did you try to find it out?

9 A Like I said, I accepted the fact that the
10 Harley-Davidson toy motorcycle existed based on
11 Dr. Slade's presentation.

12 Q In Dr. Slade's presentation he also
13 stated that "Nicotine addiction is a pediatric
14 disease; 3,000 children become regular smokers each
15 day, and of these 1,000 will eventually die because
16 of the cigarette."

17 Was there any discussion about that
18 particular statement at the shareholders' meeting?

19 MR. WACHTELL: I think you're confusing
20 two different things, Mike.

21 The statement you just read is from the
22 shareholder proposal for the 1996 annual meeting.

23 The statement and showing of the toy that the
24 witness has been testifying about and you have
25 previously been asking him about was an -- a

1 A. Tisch

2 personal presentation, and I would assume, and I
3 think the witness indicated, at a prior shareholder
4 meeting. So I don't know whether --

5 MR. MAHER: I could be mistaken.

6 Q Is that correct?

7 A That's correct.

8 Q So it is not at this meeting?

9 MR. WACHTELL: That isn't the meeting.

10 A No.

11 MR. WACHTELL: That's a proposal --

12 Q Okay.

13 MR. WACHTELL: That's something that goes
14 in the proxy statement.

15 A If I remember correctly, we had already
16 concluded -- Lorillard had already concluded its
17 negotiations with Harley-Davidson to discontinue the
18 marketing of Harley-Davidson cigarettes.

19 MR. WACHTELL: And shareholder proposal
20 for the 1996 proxy report with respect to
21 Harley-Davidson recognizes that by its terms, and it
22 is complaining, why isn't it being terminated
23 earlier.

24 So the incident with the toy was prior,
25 long prior to -- I don't know -- was prior to this,

1 A. Tisch

2 at some prior shareholders' meeting.

3 Q Was there a proposal at the prior
4 shareholders' meeting, such as this?

5 A I already answered that I do not recall
6 whether there had been or not.

7 Q It is probable there was?

8 MR. WACHTELL: No.

9 A You know, don't put words in my mouth. I
10 said I don't recall whether there was or not.

11 Q So he just stands up at a meeting with
12 the little Harley-Davidson motorcycle and -- but no
13 proposal before the shareholders' meeting, and says,
14 golly gee, here's a motorcycle with a
15 Harley-Davidson name on it?

16 MR. WACHTELL: Is that a question?

17 Q Is that what happened?

18 A Quite possibly, yes. But I don't
19 recall. I don't recall whether there was a proposal
20 that had already been submitted with the
21 presentation of it.

22 Q To your knowledge --

23 MR. WACHTELL: Did you complete your
24 answer?

25 Q Was there ever --

1 A. Tisch

2 MR. WACHTELL: Did you complete your
3 answer?

4 THE WITNESS: Yes.

5 Q To your knowledge, was there ever any
6 discussion by the board in taking the position to
7 vote against proposal number 10 with reference to
8 the language, "Nicotine addiction is a pediatric
9 disease; 3,000 children become regular smokers each
10 day, and of these 1,000 will eventually die because
11 of the cigarette"?

12 A Was there any discussion specifically on
13 that?

14 Q Yes.

15 A Not to -- not that I recall.

16 Q Was it eventually agreed that the selling
17 of the Harley-Davidson brand cigarette was a
18 violation of company policy?

19 A I wouldn't characterize -- I wouldn't
20 characterize it as that.

21 There were a whole host of reasons as to
22 why we determined that we should not continue
23 marketing Harley-Davidson cigarettes. But there was
24 never any specific determination vis-a-vis company
25 policy.

1 A. Tisch

2 Q Was it ever discussed that the
3 Harley-Davidson cigarette would be inconsistent with
4 the representation made in the 1994 annual report
5 with reference to discouraging smoking by people
6 under legal age?

7 MR. WACHTELL: Object to the form. I
8 don't understand the question.

9 A Would you repeat the question.

10 MR. MAHER: Read it back, please.

11 (Question read.)

12 A This was at a Loews board meeting or at a
13 Lorillard meeting?

14 Q Either.

15 A Not to my recollection.

16 Q When a proposal such as Exhibit 3 is
17 presented is it included in a board package for
18 board consideration?

19 A Yes.

20 Q To your recollection, was this included?

21 A If this was in the proxy statement, then
22 it was included in the package that the board -- the
23 Loews board of directors saw before the proxy
24 statement was prepared.

25 Q Did you determine that the Lorillard sale

1 A. Tisch

2 of the Harley-Davidson brand cigarette was a
3 violation of company policy that the company would
4 not market to under legal age persons?

5 A Didn't I already answer that?

6 Q No.

7 A I made no specific determination of that
8 particular fact. It just was part of a total
9 decision that we should cease marketing
10 Harley-Davidson cigarettes.

11 Q What other reasons were there for ceasing
12 to market Harley-Davidson cigarettes?

13 A To the best of my recollection,
14 Harley-Davidson itself had grown increasingly
15 agitated about the existence of this license. And
16 they were dissatisfied with having decided to market
17 a cigarette. The sales performance of the product
18 was mediocre at best and did not prove to be a huge
19 windfall --

20 MR. WACHTELL: Kids didn't buy it.

21 A -- for Lorillard. And we just --
22 Lorillard just was not satisfied with the way the
23 brand was going.

24 Q You say that Harley-Davidson was becoming
25 agitated, I think you used the word?

1 A. Tisch

2 A That's correct.

3 Q About what?

4 A About the existence of the license.

5 Q Did they express a concern that it was
6 something that could be perceived as marketing to
7 underage smokers, to children?

8 A Yes.

9 Q Who did you speak with about that at
10 Harley-Davidson?

11 A I had spoken with Richard Teerlink who is
12 the CEO, and Jeffrey Bluestein who is the president.

13 Q What did they tell you?

14 A They expressed their concern that people
15 under -- I forget whether it was 18 or 21 -- felt
16 that this would be a desirable product.

17 Q Did you ever relate these conversations
18 to Laurence or Robert Tisch?

19 A Not to my recollection.

20 Q Did you ever relate them to any other
21 person on the Loews board?

22 A Not to my recollection.

23 Q Did you ever relate them to Barry Hirsch?

24 A Not to my recollection.

25 Q When did these conversations --

1 A. Tisch

2 MR. WACHTELL: Michael, it is seven
3 minutes after 1:00. If you --

4 MR. MAHER: Do you want to take a lunch
5 break?

6 MR. WACHTELL: Unless you are going to
7 wrap up in the next few minutes.

8 MR. MAHER: Probably not.

9 MR. WACHTELL: I was hoping.

10 MR. MAHER: Against hope. I won't be too
11 long, though.

12 THE VIDEOGRAPHER: We are off the video
13 record at 1:09 p.m.

14 (Whereupon, at 1:09 p.m., a luncheon
15 recess was taken.)

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2 A F T E R N O O N S E S S I O N

3 (Time noted: 1:45 p.m.)

4 THE VIDEOGRAPHER: We're back on the
5 video record after a luncheon recess. Today's date
6 is August 7, 1996. The time is 1:45 p.m.

7 A N D R E W H. T I S C H,

8 having been previously duly sworn, was

9 examined and testified further as follows:

10 MR. MAHER: Would you read back the last
11 question, please.

12 (Record read.)

13 EXAMINATION

14 BY MR. MAHER: (continued)

15 Q At the time of the shareholders' meeting
16 where Dr. Slade held up the toy motorcycle, what was
17 the extent of the discussion or explanation given by
18 Laurence Tisch in response to Dr. Slade?

19 A After the meeting?

20 Q During the meeting and --

21 A During the meeting.

22 Q Yes.

23 A I believe he -- I may be characterizing
24 more than anything else -- expressed some similar
25 surprise and said, we'll look into it.

1 A. Tisch

2 Q After the meeting were there additional
3 discussion about it?

4 A No. The presumption was that I was gonna
5 look into it as part of the overall Harley-Davidson
6 issue.

7 Q And it was your understanding that
8 Laurence Tisch wanted follow-up on that particular
9 issue as it relates to Harley-Davidson cigarettes?

10 A That -- it was my understanding that he
11 wanted -- he wanted something done about it, or at
12 least wanted it looked into. As the CEO of
13 Lorillard I took it on myself as my responsibility.

14 Q Did Laurence Tisch have any discussion
15 with Dr. Slade about the position that nicotine
16 addiction is a pediatric disease?

17 MR. WACHTELL: When?

18 MR. MAHER: At that meeting or after that
19 meeting.

20 A I don't remember any discussion at that
21 meeting. And I would have no idea whether he had
22 any discussion after the meeting.

23 Q Did you or anyone else report to Laurence
24 Tisch or other members of the board concerning the
25 information that you found following up that

1 A. Tisch

2 particular meeting when Dr. Slade held up the
3 motorcycle?

4 MR. WACHTELL: Wasn't that asked and
5 answered before lunch?

6 MR. LONG: Only twice.

7 MR. WACHTELL: Only twice?

8 MR. LONG: Yes.

9 MR. WACHTELL: Michael, that has all been
10 covered.

11 MR. MAHER: I added a person.

12 Q Anybody else?

13 MR. WACHTELL: Well, if you have a new
14 question that doesn't repeat previous grounds, why
15 don't you ask the newer part.

16 Q What I am asking is whether or not anyone
17 else reported on that follow-up --

18 MR. WACHTELL: If you know.

19 Q -- to Laurence Tisch or other members of
20 the Loews board.

21 A Not that I know of.

22 Q He asked for follow-up, and to your
23 knowledge he never got any report of the follow-up?

24 A The report of the follow-up came in the
25 form of report to the board on the overall

1 A. Tisch

2 Harley-Davidson issue.

3 Q And so the specific questions were not
4 addressed at the board?

5 MR. WACHTELL: What specific questions?

6 MR. MAHER: Whether it sells its names
7 and logos to at least three different toy
8 manufacturers who sell more than 20 different
9 Harley-Davidson toys for various ages, that there
10 are Harley-Davidson bicycles advertised, that there
11 are Harley-Davidson stores that sell Harley-Davidson
12 branded clothing in children's sizes --

13 MR. WACHTELL: I don't think those
14 statements have question marks after them.

15 A Did I ever walk into the Loews board
16 meeting and say, Harley-Davidson does or does not
17 sell -- licenses its name to three different toy
18 manufacturers who have 20 different labels? No.
19 Did I ever walk into the Loews board meeting and
20 say, we have reached a settlement whereby we are
21 going to discontinue the sales of Harley-Davidson?
22 Yes.

23 Q Did you ever determine the accuracy or
24 the inaccuracy of the statements that were contained
25 in Plaintiffs' Exhibit 3 --

1 A. Tisch

2 A Excuse me.

3 MR. WACHTELL: I have a very vivid
4 recollection of the witness answering that question
5 before lunch, and I think I can give you virtually
6 his exact words which was, Dr. Slade held up a toy
7 and that was good enough for me, I did not have to
8 find out whether they had other toys, or words to
9 that effect.

10 MR. MAHER: I understand.

11 MR. WACHTELL: So why are you asking the
12 same questions over and over?

13 MR. MAHER: I don't think he has answered
14 that.

15 MR. WACHTELL: I think he has, but I will
16 humor you and let him answer again.

17 A Would you ask me the question again.

18 MR. MAHER: Read it back, please.

19 (Question read.)

20 MR. WACHTELL: You mean the statements in
21 the proposal part; is that correct?

22 MR. MAHER: Correct.

23 MR. WACHTELL: I think you have to be
24 more precise than this.

25 A There are a whole bunch of parts of --

1 A. Tisch

2 Q Do you want me to ask it specifically?

3 A Yes.

4 Q "Harley-Davidson has licensed its names
5 and logos to at least three different toy
6 manufacturers who sell more than 20 different
7 Harley-Davidson toys for various ages, beginning
8 with three and above."

9 Did you ever determine that that was an
10 inaccurate statement?

11 MR. WACHTELL: What does that have to do
12 with jurisdiction over Loews in Florida? Would you
13 please enlighten me.

14 MR. MAHER: This is a Loews Corporation
15 proxy report.

16 MR. WACHTELL: Yes. There is a
17 stockholder proposal, as the witness has testified.
18 There is a board recommendation against it. And I
19 don't understand what that has to do with the
20 accuracy of a statement by some shareholder as to
21 whether Harley-Davidson does or does not license its
22 toys to a given number of manufacturers. What does
23 that have to do with jurisdiction over Loews in
24 Florida?

25 MR. MAHER: It has to do with the

1 A. Tisch
2 chairman of Loews Corporation directing that the CEO
3 of Lorillard follow up on these particular issues.

4 A You know, I don't want to characterize it
5 as he walked up to me and said, Andrew, you handle
6 this. He did not do that. He --

7 Q You assumed that, though?

8 A I assumed that because I was the CEO of
9 Lorillard and because it was an issue that was
10 specifically related to a Lorillard product, that
11 this was something that I should look into further.

12 I will -- let me further say that one of
13 our other -- one of Loews's other subsidiaries is a
14 licensee of Harley-Davidson products. And I did not
15 feel that it was directed at that other subsidiary
16 as opposed to Lorillard.

17 Q Which subsidiary is that?

18 A That's Bulova.

19 Q They do a Harley-Davidson watch or
20 something?

21 A Harley-Davidson watches and clocks.

22 Q Still do it?

23 A Still do it.

24 Q Getting back to the original question.

25 As I understood it, Dr. Slade stood up, said,

1 A. Tisch

2 Harley-Davidson does this; Laurence Tisch was
3 surprised and said, we did not know that, and we'll
4 look into it?

5 A This is to the best of my recollection.
6 I'm characterizing it, not reporting directly this
7 is absolutely what he said.

8 MR. WACHTELL: But what Dr. Slade --

9 Q But generally that's what happened?

10 A My assumption based on my recollection is
11 he, like I, did not know that Harley-Davidson had
12 licensed its name to a toy manufacturer.

13 MR. WACHTELL: Michael, no one has said
14 that Dr. Slade got up at a meeting prior to 1996 and
15 said all of the things that you are now directing
16 the witness's attention to in the 1996 shareholder
17 proposal, which may or may not be by Dr. Slade.

18 Q Did you ever make a determination that
19 Harley-Davidson brand bicycles had been advertised
20 on television?

21 MR. WACHTELL: What does that have to do
22 with jurisdiction over Loews in Florida? I will let
23 him answer. I am not going to let this go on much
24 longer because I think this is a travesty.

25 A Did I? No.

1 A. Tisch

2 Q Do you want me to go through -- I'll go
3 through all of them. But did you specifically
4 follow up on any of the allegations of the
5 resolution?

6 MR. WACHTELL: Asked and answered.

7 A I've already answered that.

8 MR. WACHTELL: By the time this
9 resolution was proposed they had made the decision,
10 as the resolution itself reflects, to get out of the
11 brand. So your questions are internally mutually
12 exclusive. They contradict themselves.

13 MR. MAHER: You're done?

14 MR. WACHTELL: Yes. I think -- you know,
15 you're putting the burden on me because you are
16 asking confused and mutually inconsistent questions
17 that are misstating the record, and then you look at
18 me as if I shouldn't be making objections.

19 Mike, if you ask proper questions we
20 really can get along very smoothly and I don't have
21 to say a word. But I think maybe you're purposely
22 asking questions that are incapable of being
23 responded to in order to provoke me into objecting.

24 Yes, I'm done.

25 MR. MAHER: Are you instructing him not

1 A. Tisch

2 to answer the question?

3 MR. WACHTELL: No, I didn't do that.

4 MR. MAHER: Okay.

5 MR. WACHTELL: You would love me to.

6 BY MR. MAHER:

7 Q As it relates to the 1994 annual report,
8 particularly the paragraph that we referred to,
9 "Lorillard continues to support and strictly adhere
10 to voluntary, multifaceted, industry programs to
11 discourage smoking by people under the legal age,"
12 do you recall the paragraph we talked about?

13 A Right. Yes.

14 Q Does that continue to be the position or
15 policy or statement of Lorillard?

16 MR. WACHTELL: You asked that question
17 this morning. I will let him answer it again.

18 A I believe it does.

19 Q That position hasn't changed?

20 A I don't believe that that position has
21 changed.

22 Q And Loews has not changed its position as
23 it represented in the 1994 annual report?

24 MR. WACHTELL: Object to the form of the
25 question.

1 A. Tisch

2 MR. LONG: Position on what?

3 MR. WACHTELL: I think that is highly
4 misleading.

5 MR. LONG: Position on what?

6 MR. MAHER: The statements that were made
7 in their annual report.

8 A Loews has not changed the way that it
9 reports its chairman's letter, that it handles its
10 chairman's letter, if that's the question.

11 Q To your knowledge, has Loews's board or
12 Loews Corporation backed off from that particular
13 statement that is contained in the 1994 report?

14 MR. WACHTELL: You know, Mike, there is a
15 point that what you are doing really becomes so
16 improper. This witness has told you, I am not
17 telling you, this record will show this witness is
18 telling you, that that was the statement by the
19 Loews board as to a policy of Lorillard that the
20 Loews board believed to be true.

21 And now you keep on asking the questions
22 trying to put in the witness --

23 MR. MAHER: Let me ask the witness --

24 MR. WACHTELL: Let me finish, please.

25 You continue asking questions trying to put in the

1 A. Tisch

2 witness's mouth the concept that it is the Loews
3 policy. Now you know better. You have heard his
4 testimony. You are a very able and bright lawyer.
5 I think you should cut it out.

6 Q Is the statement that is contained, that
7 we have referred to, to your knowledge, has there
8 been any discussion that Loews does not support that
9 statement?

10 MR. WACHTELL: Object to the form of the
11 question for the reasons I just stated. If you can
12 answer -- if the premise in the question is contrary
13 to your testimony, do the best you can.

14 A There has been no discussion as to any
15 change in Loews's policy vis-a-vis support of the
16 statement.

17 Q Thank you.

18 Were you involved at all in the
19 decision-making process with reference to Lorillard
20 moving to North Carolina?

21 A Yes.

22 Q When did those discussions begin?

23 A Let me -- I have to take off my Loews hat
24 and put on my Lorillard hat. Prior to 1995, prior
25 to June of '95, that idea was explored.

1 A. Tisch

2 Q By whom?

3 A By me when I was the CEO of Lorillard.

4 Q Okay.

5 A And we looked at the feasibility at that
6 point, probably around '92, '93, of moving
7 Lorillard's headquarters from New York to
8 Greensboro. And it was decided, or I decided, that
9 I just as soon not move the company headquarters to
10 Greensboro.

11 When I left as CEO, among the things that
12 I told Dr. Spears was that we had looked at the
13 possibility prior to this of moving to Greensboro.
14 That he may want to reexplore that as a possibility.

15 Q You say, we had looked at moving to
16 Greensboro.

17 A We, meaning Lorillard, prior to 19 --
18 prior to my leaving Lorillard as CEO.

19 Q Was Spears involved in that discussion
20 initially?

21 A In 1995?

22 Q Prior to that.

23 A I am sorry. Prior to 1995? No.

24 Q Who was involved in it?

25 A I was involved in it. And I believe Al

1 A. Tisch

2 Peterson, who is the CFO of Lorillard. And I
3 believe Ken Abrams, who at the time was vice
4 president of personnel at Loews Corporation, serving
5 in his capacity under the services agreement between
6 Loews and Lorillard, was involved in looking at the
7 human resources issues of accomplishing such a move.

8 Q How about Arthur Stevens?

9 A I do not believe that he was consulted.

10 Q From a standpoint of discussions about
11 the North Carolina move, did you ever have any
12 discussion with Laurence or Robert Tisch about it?

13 A Prior to the '9 -- prior to June of '95 I
14 believe I mentioned the possibility to Robert Tisch.

15 Q You never had any discussions with
16 Laurence Tisch about it?

17 A Not to my recollection.

18 Q What did you discuss with Robert Tisch
19 about it?

20 A I believe I told him that I was exploring
21 the possibility.

22 Q What was his response?

23 A I don't remember, but he was kind of
24 lukewarm to the idea.

25 Q Any reason for him being lukewarm to it?

1 A. Tisch

2 A I think -- I'm not sure. You know,
3 again, I'm very vague on what the discussions were,
4 but I think he felt that moving that many people may
5 not make much sense in his mind. But it was in the
6 form of advice, not dictum.

7 Q How extensive were those conversations?

8 A Very limited.

9 Q How long?

10 A Minute, maybe two.

11 Q How many occasions?

12 A Probably one. I may have reported back
13 to him that we weren't -- we, Lorillard, were not
14 going to move.

15 Q At the time you initially reported to him
16 were you inclined to make the move?

17 A I was quite disinclined to make the move.

18 Q Okay. Whose --

19 A The overriding reason why companies move
20 is because it's where the CEO wants to be. And I
21 did not see myself living in Greensboro.

22 Q How did it come up, if that is the
23 overriding reason?

24 A Well, if there was an overriding
25 financial imperative that would have made it very

1 A. Tisch

2 lucrative to move to Greensboro, I may have
3 subjugated my New York chauvinism for that reason.

4 Q Let's assume that -- well, as it relates
5 to the move to North Carolina, are there going to be
6 real estate ownerships involved in that move?

7 MR. WACHTELL: Object to the form of the
8 question. I don't understand it.

9 Q Is Lorillard going to buy some real
10 estate to have its facility?

11 A Lorillard -- and I'm trying to remember
12 whether they will buy the real estate or take a
13 long-term lease on the land. But there will be a
14 Lorillard headquarters building in Greensboro, North
15 Carolina.

16 Q In the event that Lorillard would have to
17 borrow large sums of money, would you anticipate
18 that Loews would be willing to sign a guarantee for
19 Lorillard?

20 MR. WACHTELL: Object to the form of the
21 question. The question presumes large sums of
22 money, assumes -- you say willing -- presumes some
23 need.

24 THE WITNESS: May I answer the question?

25 MR. WACHTELL: Yes, you can answer.

1 A. Tisch

2 A The cost of the move will be funded by
3 anywhere from two to three weeks' cash flow from
4 Lorillard.

5 So I think that that's a -- the question
6 is not relevant. As to whether Loews would have
7 to -- would have to be asked to co-sign anything is
8 not relevant. But Loews wouldn't sign it anyway.

9 Q Why not?

10 A Because Loews is -- Lorillard is a
11 separate subsidiary of Loews. Separate from Loews
12 Corporation.

13 Q So Loews Corporation would not in any
14 instance sign a guarantee for Lorillard or Lorillard
15 Tobacco?

16 A Using the history as the predictor of the
17 future, I would say that's a fair statement.

18 Q That is true of any other subsidiary?

19 MR. WACHTELL: He didn't say that.

20 A I didn't say that.

21 MR. MAHER: You can just answer the
22 question directly, if you'd like.

23 Q What is P-L-I-S-A, S.A., Plisa?

24 A Plisa?

25 Q Plisa.

1 A. Tisch

2 A To the best of my recollection, Plisa is
3 the remainder company from Lorillard International.
4 The assets of which were sold to -- licensed to
5 British American Tobacco in, I believe it was, 1978.

6 Q Is that active at this point?

7 A No. I believe it is a company which has
8 cash assets, and that's it.

9 Q Did you have any direct supervision over
10 Plisa while you were CEO of Lorillard, Inc., or
11 Lorillard Tobacco?

12 A When you say "direct supervision," what
13 does that mean?

14 Q I mean, did you have -- was it under your
15 umbrella, was it under your control? Whatever.

16 A Was it under Lorillard?

17 Q Yes.

18 A Yes.

19 Q Yes.

20 A Yes.

21 Q Did you have -- did you really do
22 anything with it, though, is what I am kind of
23 getting at?

24 A There were a couple of instances where I
25 believe that I raised the question about possibly

1 A. Tisch

2 funding some of our overseas Lorillard ventures that
3 we were considering with funds from Plisa.

4 Q When was that?

5 A That would have been probably in '92 to
6 '94.

7 MR. WACHTELL: What does this --

8 Q And what --

9 MR. WACHTELL: What do these solely
10 internal Lorillard considerations of possible
11 activities overseas have to do with anything that
12 has to do with jurisdiction over Loews in Florida?

13 Q Who did you discuss it with?

14 MR. WACHTELL: I will give you a little
15 more latitude, and then I am going to direct him not
16 to answer unless you get to something
17 jurisdictional.

18 Q Who did you discuss it with?

19 A Al Peterson.

20 Q Did you ever discuss it with any member
21 of the Loews board?

22 A No.

23 Q Did you ever present it to the Loews
24 board?

25 A No.

1 A. Tisch

2 Q Vegan Development Corporation, what is
3 that?

4 A Vegan Development Corporation is a
5 subsidiary of Lorillard.

6 Q What does it do?

7 MR. WACHTELL: Lorillard, Inc., I think.

8 THE WITNESS: It is a subsidiary of
9 Lorillard, Inc., to be more precise.

10 It owns and operates real estate in the
11 State of Nevada.

12 Q What type of real estate?

13 A It owns one office building and is in
14 negotiations to buy a second office building. It is
15 also the holder of a note from Lorillard Tobacco
16 Company to Lorillard, Inc.

17 Q Who are the officers of that corporation?

18 A The chairman is a woman named Christina
19 Roush who is a native of Las Vegas. The directors
20 are --

21 MR. WACHTELL: I think the question was
22 just officers.

23 A Officers? Beyond that, I'm not sure who
24 the specific officers are.

25 Q Are you on the board of directors of that

1 A. Tisch

2 corporation?

3 A Yes.

4 Q Any other members of the Loews board that
5 are on that board?

6 A No.

7 Q Other than what you have described, any
8 other activities of that company?

9 A No.

10 Q How about Carolina Cigarette,
11 Incorporated -- Cigarette Company, Incorporated?

12 A Carolina Cigarette Company is a company
13 that Lorillard established in 1990 or '91 to handle
14 possible international expansion of some of our
15 brands.

16 Q What is the present status of that
17 company?

18 A The --

19 MR. WACHTELL: Objected to as having
20 nothing to do with jurisdiction, and objected to on
21 being post-complaint.

22 You may answer.

23 A The marketing efforts undertaken under
24 Carolina Cigarette Company are being wound down.

25 Q Lorillard Tobacco of Colombia, S.A.?

1 A. Tisch

2 A I have no idea.

3 Q New-Broad Company?

4 A I don't remember whether that's a sales
5 promotion, item purchasing company or not. It may
6 be.

7 Q L. Distributing Company?

8 A I believe that L. Distributing handles
9 either sales promotion or media for Lorillard.

10 Q One Park Media Services, Inc.?

11 A That would be the media company. Sales
12 distributing would probably be the promotional
13 services.

14 Q Are you on the board of -- I think you
15 said you were on the board of Carolina Cigarette?

16 MR. WACHTELL: No.

17 Q Or not?

18 A No, I didn't say that.

19 Q Are you on it or not?

20 A I am not on the board.

21 Q Okay. Are you an officer?

22 A No.

23 Q Lorillard Tobacco of Colombia?

24 A No.

25 Q New-Broad?

1 A. Tisch

2 A No.

3 Q L. Distributing?

4 A No.

5 Q One Park Media Services?

6 A No.

7 Q Okay. Of those companies, do you know of
8 any member of the Loews board that is a member of
9 any of those boards?

10 A I do not.

11 (Pause.)

12 Q Are you currently paid anything by
13 Lorillard Tobacco or Lorillard, Inc.?

14 A No.

15 Q When was the last payment or compensation
16 that you received from Lorillard, Inc. or Lorillard
17 Tobacco?

18 A Probably two weeks after my
19 resignation.

20 Q Do you sit on the board of Lorillard
21 Tobacco or Lorillard Inc. at the present time?

22 A No.

23 Q Do you attend any of their board
24 meetings?

25 A No.

1 A. Tisch

2 Q When was the last board meeting of
3 Lorillard, Inc. or Lorillard Tobacco that you have
4 attended?

5 A Sometime before my resignation.

6 Q In your present capacity do you have any
7 discussions with persons who sit on the board of
8 CTR?

9 MR. WACHTELL: Could I have the question,
10 please.

11 (Question read.)

12 A I don't know.

13 Q You don't know who is on the board?

14 A I don't know who is on the board.

15 Q Okay. How about Arthur Stevenson --
16 Stevens, do you have exchanges with him?

17 A Yes.

18 Q Do you have any discussions with him
19 about CTR?

20 A No.

21 Q Do you have any discussions with him
22 about Tobacco Institute?

23 A Nothing outside of pure gossip.

24 Q Dr. Spears?

25 MR. WACHTELL: What is the question?

1 A. Tisch

2 Q Do you have any discussions with him
3 about CTR or the Tobacco Institute?

4 A It would be the same answer.

5 Q Do you know whether or not there are
6 still contributions to CTR by Lorillard, Inc. or
7 Lorillard Tobacco?

8 MR. WACHTELL: You asked that this
9 morning. I directed him not to answer this morning
10 as the quantum of contributions. Now your question
11 is even more objectionable because you are putting
12 in at the present time, which is long after the
13 filing of the complaint.

14 I direct him not to answer.

15 (Pause.)

16 MR. WACHTELL: One second. Could we take
17 a break for a moment?

18 MR. MAHER: Sure.

19 MR. WACHTELL: Going off the record?

20 THE VIDEOGRAPHER: Off the video record.

21 The time is 2:18 p.m.

22 (Recess taken.)

23 THE VIDEOGRAPHER: We're back on the
24 video record. The time is 2:19 p.m.

25 BY MR. MAHER:

1 A. Tisch

2 Q At any time before you became CEO in 1989
3 of Lorillard Tobacco or Lorillard, Inc. did you work
4 for Lorillard?

5 A Yes.

6 Q When?

7 A September of '71 to, I believe it was,
8 August of '75.

9 Q And what was the nature of your position?

10 A I ended up as a brand manager. I started
11 as a trainee, and spent four years in various
12 capacities there.

13 Q Has that been the extent of your
14 experience in the tobacco business --

15 MR. WACHTELL: Before --

16 Q -- before becoming CEO?

17 A Yes.

18 Q Do you discuss in your capacity as chair
19 of the management committee Lorillard with John and
20 James Tisch?

21 A Only insofar as when we do have
22 management committee meetings we talk about what's
23 happening in each one of our companies.

24 Q Have you ever had discussions with them
25 about the divesting of Lorillard?

1 A. Tisch

2 A Not as part of the -- I am sorry. We
3 have had discussions as part of the management
4 committee, and Jim Tisch and I have had such
5 discussions informally.

6 Q When?

7 A Ongoing.

8 Q Did you have, prior to your leaving as
9 CEO of Lorillard Inc., and Lorillard Tobacco,
10 discussions with James Tisch, John Tisch, Laurence
11 Tisch or Preston Robert Tisch about the divesting of
12 Lorillard --

13 A Yes.

14 Q -- from Loews Corporation?

15 Over what period of time?

16 A Ongoing. Periodically we'd look at
17 market opportunities and see whether -- what, if
18 any, opportunities there were to divest all or part
19 of the company.

20 Q Were those discussions held in the early
21 nineties?

22 A Like I said, they were ongoing. There
23 were a couple -- there was an inquiry at one point
24 by B.A.T. about possible acquisition of Lorillard.
25 We held several meetings. We held two meetings with

1 A. Tisch

2 the B.A.T. people.

3 MS. DOMINITZ: Excuse me. Could I ask

4 which B.A.T.? Are you talking about British

5 American Tobacco or B.A.T., the initials?

6 THE WITNESS: B.A.T., British American

7 Tobacco.

8 MS. DOMINITZ: Thank you.

9 THE WITNESS: Yes.

10 Q How far along did those discussions get?

11 A Not very.

12 Q When was that -- when were those

13 discussions?

14 A '93 or '94. Prior to the B.A.T.

15 acquisition of American brands.

16 Q In the discussions that you had with

17 Laurence Tisch and/or Preston Robert Tisch

18 concerning divesting the company did you discuss

19 legislation and litigation as some stimulus for

20 divesting of Lorillard?

21 MR. WACHTELL: Object to the form.

22 A Not as a stimulus. More as a deterrent.

23 Q A deterrent to divest?

24 A To certain types of divestitures.

25 Q Explain that for me. I don't follow.

1 A. Tisch

2 A Certain issues relating to litigation and
3 future litigation, and what type of disclosures
4 would have to be made in statements.

5 Q To the people that you are presenting to?

6 A Yes, exactly.

7 Q What was the reaction of Laurence Tisch
8 or Preston Robert Tisch to the idea of divestiture?

9 A Ultimately, their decision was that --
10 has been that it's not opportune to divest of any or
11 all of the company to date.

12 Q Did you ever prior to your leaving as CEO
13 recommend to them that they -- that Lorillard, Inc.
14 should be divested?

15 MR. WACHTELL: I have been sitting here
16 listening to all of this and it is all very, very
17 fascinating and it is all very, very irrelevant.
18 Any consideration as to divesting Lorillard in
19 whole or part has zip to do with the question of
20 Loews being subject to jurisdiction in Florida,
21 unless you can show me otherwise. I am not going to
22 make it go -- I will let him answer this question,
23 but if you're planning to continue on this line I am
24 going to direct him not to answer because I really
25 want to get out of here. And I think this is an

1 A. Tisch

2 imposition.

3 A Would you repeat the question.

4 MR. MAHER: Read it back, please.

5 (Question read.)

6 A It was not in the form of a
7 recommendation. In the form of an exploration.

8 (Pause.)

9 MR. MAHER: That's all I have.

10 MR. WACHTELL: I have two questions.

11 EXAMINATION

12 BY MR. WACHTELL:

13 Q Would you tell us your education.

14 A Let's see. I have got a master's -- I'm
15 sorry -- a bachelor of science degree in 1971 from
16 Cornell University. And an MBA in 1977 from the
17 Harvard University Graduate School of Business
18 Administration.

19 Q In 1955 to 1959 when you testified you
20 lived in Florida how old were you?

21 A Ages six through nine. Six through 10.
22 Six through nine. Yes.

23 MR. WACHTELL: No further questions.

24 MR. MAHER: No questions.

25 THE WITNESS: Thank you.

1 A. Tisch

2 THE VIDEOGRAPHER: At this time we are
3 going off the video record. Today's date is August
4 7, 1996. It is 2:28 p.m. We are off the video
5 record.

6 (Time noted: 2:28 p.m.)

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WITNESS

EXAMINED BY

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Mr. Maher

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Mr. Wachtell

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DIRECTIONS NOT TO ANSWER

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STATE OF NEW YORK:
COUNTY OF NEW YORK:

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I, ANDREW H. TISCH, hereby certify that I

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have read the transcript of my testimony taken under

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oath on the 7th day of August 1996, that the

10

transcript is a true, complete and correct record of

11

what was asked, answered, and said during the

12

deposition, and that the answers on the record as

13

given by me are true and correct.

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ANDREW H. TISCH

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Signed and subscribed to before me

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this day of

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Notary Public

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C E R T I F I C A T E

STATE OF NEW YORK)
 : ss.:
COUNTY OF NEW YORK)

I, COLETTE CANTONI, a Registered
Professional Reporter and a Notary Public within and
for the State of New York, do hereby certify that
the foregoing deposition of ANDREW H. TISCH was
taken before me on the 7th day of August 1996.

That the said witness was duly sworn
before the commencement of his testimony; that the
said testimony was taken stenographically by me and
then transcribed.

I am not related by blood or marriage to
any of the said parties nor interested directly or
indirectly in the matter in controversy; nor am I in
the employ of any of the counsel.

IN WITNESS WHEREOF, I have hereunto set
my hand this 7th day of August 1996.

COLETTE CANTONI